



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 14-03282
)
Applicant for Security Clearance)

Appearances

For Government: Philip J. Katauskas, Esq., Department Counsel
For Applicant: Jacob Ranish, Esq.

04/21/2015

Decision

CREAN, Thomas M., Administrative Judge:

Based on a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied. Applicant did not present sufficient information to mitigate alcohol and drug security concerns.

Statement of the Case

On February 11, 2013, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for a position with a defense contractor. After an investigation by the Office of Personnel Management, the Department of Defense (DOD) could not make the affirmative findings required to issue a security clearance. DOD issued Applicant a Statement of Reasons (SOR), dated August 7, 2014, detailing security concerns for foreign preference under Guideline C, drug involvement under Guideline H, and alcohol consumption under Guideline G. The action was taken 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 in the DOD on September 1, 2006.

Applicant answered the SOR on August 28, 2014. He denied the foreign preference allegation (SOR 1.a), but admitted the 13 drug involvement allegations (SOR 2.a to 2.m), and the 5 alcohol consumption allegations (SOR 3.a to 3.e). Department Counsel was prepared to proceed on January 5, 2015, and the case was assigned to me on January 12, 2015. DOD issued a notice of hearing on January 21, 2015, scheduling a hearing for February 5, 2015. I convened the hearing as scheduled. The Government offered three exhibits that I marked and admitted into the record without objection as Government Exhibits (Gov. Ex.) 1 through 3. Applicant and three witnesses testified. Applicant submitted ten exhibits that I marked and admitted into the record without objection as Applicant Exhibits (AX) A through J. I left the record open for Applicant to submit additional documents. Applicant timely submitted one additional document, dated February 6, 2015, which I marked and admitted into the record without objection as AX K. I received the transcript of the hearing (Tr.) on February 13, 2015.

Findings of Fact

After a thorough review of the pleadings, transcript, and exhibits, I make the following essential findings of fact.

Applicant is 42 years old and has been employed as a web developer for a defense contractor since February 2013. He is also self-employed providing computer support to customers. He is a high school graduate with some college courses. He is married with no children. He has no military service. (Tr. 11-12; GX 1, e-QIP, dated February 11, 2013).

Applicant is a United States citizen by birth. In 2013, he applied for and received citizenship in the United Kingdom (UK) based on his mother's birth in Scotland. He also received a UK passport. He never voted in a UK election, held political office in the UK, received any benefits from the UK, nor served in the UK military. He never used the UK citizenship to obtain any business or financial benefit, or performed any duty on behalf of the UK. His wife is a U.S. citizen, and all of his property is in the U.S. He turned his UK passport over to his facility security officer (FSO). (Tr. 43-45, 87-88) Based on this information, Department Counsel withdrew the allegation under foreign preference. (Tr. 134-135)

Applicant admitted all of the drug involvement allegations. The SOR alleges that from January 2012 until at least July 2013, Applicant used an illegal drug ayahuasca leaf/DMT (SOR 2.a); that from May 2010 until at least January 2012, he used methamphetamine on multiple occasions (SOR 2.b); that from May 2010 until at least January 2012, he purchased methamphetamine on multiple occasions (SOR 2.c); that from May 2009 until at least January 2012, he used Adderall in excess of the prescribed amount on multiple occasions (SOR 2.d); that from March 1987 until at least December 2011, he used marijuana on multiple occasions (SOR 2.e); that from March 1987 until at

least December 2011, he purchased marijuana on multiple occasions (SOR 2.f); that in January 2012, he received a written reprimand from his employer for failure to appear at work after oversleeping due to Adderall abuse (SOR 2.g); and that from February 1991 to at least May 2009, he used cocaine on multiple occasions (SOR 2.h). It is also alleged that in May 2009, he was charged with public intoxication and possession of marijuana and placed on probation for three months (SOR 2.i); and in May 2007, he enrolled in a substance abuse program but left before completion of the program (SOR 2.j). It is alleged that in October 1992, he was charged with possession of marijuana (SOR 2.k). It is also alleged that in 1991, he was charged with the delivery of LSD, and in February 1993, he was placed on probation for eight years (SOR 1.l). Finally he participated in a drug rehabilitation program from April 1991 to May 1991 (SOR 1.m).

Applicant admitted all of the alcohol consumption security concerns. The SOR alleges that Applicant consumed alcohol with various frequency and sometimes to excess from approximately 1986 to at least 2012 (SOR 3.a); that in May 2007 he was terminated by his employer for becoming intoxicated on a business trip, had company property stolen, and lied about the incident to his employer (SOR 3.b); that in November 2005 he pled guilty to driving under the influence and driving while impaired and was fined (SOR 3.c); that he was charged with public intoxication and placed on probation as noted in SOR 2.i (SOR 3.d); and that he enrolled in substance abuse programs in May 2007, as noted in SOR 2.j and in April to May 1991, as noted in SOR 2.m (SOR 3.e).

Applicant's father was transferred around the world for his job, and the family moved every three years to many different locations. When Applicant was 14 years old, his father was sent to Saudi Arabia. There were no schools for English-speaking students so he went to boarding school out of the country. Since he did not have proper parental supervision, he went with the wrong group and started to abuse alcohol and drugs. By the time he was 19 years old and living in the United States in 1991, his parents had to send him to a rehabilitation facility. He voluntarily attended and completed the 28-day program. He did not know if his parents paid for the treatment or if it was covered by insurance. (Tr. 23-25, 47-48)

Applicant continued to use and abuse alcohol and drugs. He did not attend another substance abuse program until 2007. In May 2007, Applicant was on a business trip for his then employer. He went to bars, drank heavily, and blacked out. He awoke in his hotel room and everything, including his business computer, was missing. He called his boss and told him someone broke into his room and stole all of his items. He called his wife and told her about the drinking, and she told him that he needed to take some action about his drinking and also to call his boss and tell him the truth. He called his boss and told him he had lied, had gotten drunk and had no idea what happened. He also said he would try to get into a substance abuse program. He made the second call to his boss about 20 minutes after the first call. He entered a substance abuse program. After a week, he determined it was similar to the program he attended in 1991. He did not think he was getting good results from the program and it was

costing him a lot of money. He was paying the cost himself. He left the 28-day program for financial reasons after only eight days. (Tr. 25-30, 48-50)

Applicant admits that in 2009 he was arrested for public intoxication. He blacked out and awoke in jail. He realized that he could have had a bad accident and could kill someone while drunk. He vowed to stop drinking alcohol. Since May 2009, he has not consumed alcohol to excess. He no longer has the urge to consume alcohol beyond safe limits. Applicant still consumes limited amounts of alcohol on special occasions. There is alcohol in the house since his wife consumes alcohol. He continued to abuse illegal drugs, to include marijuana, Adderall, and methamphetamine. (Tr. 29-31, 50-51, 69-70, 74-75)

Applicant married in 1997. Over the course of their marriage, Applicant's abuse of drugs and alcohol led to the end of the marriage. His wife was tired of his constant alcohol and drug abuse, and she left him in 2010/2011. He considered this a low point in his life so he consulted a psychiatrist about his addictions in November 2011. He had two sessions with the psychiatrist and one with his associate consultant. The psychiatrist prescribed an increase in his Adderall and an anti-convulsant medication. Applicant felt the doctor was only treating the symptoms and not looking for a cure for his abuse issues. Applicant tried to overcome his substance abuse problems by using traditional methods. He felt these methods were only treating the abuse issues and not the underlying discontent, melancholy, and self-destructive behavior issues. (Tr. 31-34, 56-62)

In December 2011, Applicant read an article in the National Geographic magazine about a drug called ayahuasca. The active ingredient in ayahuasca, dimethyltryptamine, is a Schedule I drug. He researched the drug and learned that it had a good success rate in treating depression and addictions. Since these were the causes of his alcohol and drug abuse problems, he thought the use of ayahuasca was worth a try. He either had to look at this drug or attend a very long and costly treatment program. The ayahuasca program cost about \$2,000 compared to a traditional long-term treatment program costing over \$30,000. The use of ayahuasca had credibility with Applicant because the information came from the National Geographic magazine. He decided to take part in the cleansing ceremony held in Peru using ayahuasca. (Tr. 34-38, 112)

Ayahuasca is administered during a ceremony that lasts about four hours. A person attends the ceremonies for a week, and there are five ceremonies in the evenings during the week. In the ceremony, a brew made from the ayahuasca leaf or vine is ingested. Applicant does not know if there is any supervision from the Peru government on the preparation of the brew. The participants assist in gathering the material and preparing the brew. The result of drinking the brew is a euphoric feeling. Applicant had similar feelings when he was using alcohol and drugs. He does not feel he is substituting the brew and the ceremonies for his drug or alcohol use. He did not consult any doctors or professionals about the program before attending. He did his

own research and read material on his own. (Tr. 61-68: See, AX C, Editorial, International Journal of Drug Policy, 2012)

Ayahuasca is legal in Peru but illegal in the United States. Applicant traveled to Peru from Texas in January 2012 to attend his first ceremony using ayahuasca. After he attended the program, Applicant felt completely changed and very different. He stopped using illegal drugs. He reports that he has not used illegal drugs since January 2012. He felt he had an exorcism where the self-destructive behavior left him. He felt content with himself and had no desire for self-destructive behavior. Since his participation in the program, he has not used Adderall or marijuana nor does he have any interest in using illegal drugs. He stopped associating with individuals that he knew used illegal drugs, and he has no interest in reestablishing contact with them. He does not attempt to hide his prior drug use but talks freely about it. Everyone knows about his past drug use. He and his wife reconciled and remarried in April 2013. She would not have remarried him if he had not ceased alcohol and drug abuse. He is willing to be subject to random drug tests. He considers himself a different person with no self-destructive behavior or a desire to use drugs or drink alcohol. Applicant is a licensed pilot and he could lose his certificate if he abuses drugs or alcohol. He is a steady volunteer for programs in his community (Tr. 38-46, 76-78)

After his first ceremony in January 2012, Applicant decided he would participate in these ceremonies in the future. He vowed to help others realize the benefit of the program and help them attend ceremonies. He attended another ceremony in May 2012 with a friend. He made a third trip with his wife in December 2012. He participated in each ceremony by ingesting the brew. Applicant made a fourth trip to Peru with a friend in July 2013 where sanango was ingested rather than ayahuasca. Sanango is a different brew made from hibiscus root but is in the same drug category as ayahuasca. Applicant attended the first ceremony for his own benefit. He stated that he attended the other three to help others. (Tr. 65-69, 72-74, 77-81)

No medical professional advised him to make the trip. A doctor friend told him he might as well try the program because he had failed all other programs. He needed a very long rehabilitation program to overcome his addictions. He considers Alcoholics Anonymous (AA) to be a good program, but it is not right for him. (Tr. 57-58, 71-72)

A program manager and the facility security officer (FSO) for Applicant's company testified that he has worked with Applicant since early 2013. He is aware of Applicant's prior drug use. Applicant is an excellent employee. He is very intelligent and works hard. He has never seen Applicant under the influence of either drugs or alcohol. He believes Applicant is trustworthy and reliable. He recommends that he be granted eligibility for access to classified information because Applicant's demeanor and professionalism is outstanding. (Tr. 82-88)

Applicant's wife, a travel accounts manager, testified that she and Applicant first married in October 1997. Applicant's abuse of alcohol and drugs put a strain on the marriage. She told Applicant that she would leave him if he continued his drug and

alcohol abuse. Applicant came home one day with methamphetamine given to him by a friend. She left him in March 2011 and divorced him in September 2011. However, they stayed in contact. After Applicant traveled to Peru to use ayahuasca, she noticed a change in his demeanor. He was calm and at peace with no desire for drugs. She did not see any drug activity, and Applicant did not contact his former drug-using friends. Applicant told her of his experience in Peru. She was skeptical because it was not the normal type of drug rehabilitation program she experienced in assisting Applicant to control his drug use. She researched the ayahuasca program and was surprised at the success of the program. She wanted to see the program for herself so she traveled with Applicant to Peru in December 2012. There were people there with various issues such as depression, anxiety, and substance abuse. Applicant's wife was changed in a positive way by the experience. She and Applicant started living together again in April 2013 and remarried in December 2013. She is confident he will never be involved in alcohol and drug abuse again. He is a different person and no longer has self-destructive tendencies. She last saw him drink to excess in 2009. She believes he should be granted eligibility for access to classified information because he respects the law and obeys the rules. (Tr. 89-98)

A post-doctoral research scientist at a major university medical center testified that he has master and doctoral degrees in psychology and training in behavioral pharmacology which is the effect of serotonergic hallucinogens-type drugs on human behavior. His area of focus is the effects of psilocybin.¹ He has not done any research directly on the effects of ayahuasca. Ayahuasca is considered in the same class of drug as psilocybin. Ayahuasca is a brew made from the roots of two different plants by Amazonian medicine men for religious and spiritual purposes. The brew has the same psycho-active effects as other hallucinogens like LSD and psilocybin. Ayahuasca is considered in the same drug class as the drug he primarily researches because of the similar effects on the brain. Both can create very profound altered states of consciousness which some people find highly meaningful and spiritual or transcendent. (Tr. 100-104, 116-117)

He has been studying the use of psilocybin to treat smoking addiction. The results of the study so far have been good. The studies have been small because the drugs are still classified as Schedule I drugs. The drugs may help with addictions because they cause the subjects to reprioritize the things in their lives. Their prior addictions may become less meaningful so they no longer want to engage in addictive behavior. There have been other studies that have looked at the effects of these types of hallucinogens on cocaine addiction, alcoholism, and poly-substance (many substances) abusers. There was a significant decrease in problematic drug use after administration of ayahuasca in group treatment programs. The only drug that ayahuasca does not seem to affect is cannabis. The studies also show that the more recovery capital the person has, such as good relationships, job prospects, and living stability, the better and longer the recovery. (Tr. 104-109)

¹ The witnessed Curriculum Vitae is at AX H.

The witness discussed with Applicant his history of drug and alcohol abuse. He is aware that Applicant used ayahuasca to overcome his addictions and that there is a remission in his problematic drug and alcohol abuse. Applicant's experience is consistent with what the witness has seen from the present research and he believes from the data that Applicant has a greater than eight in ten chance of remaining abstinent. There is no chance that Applicant will become addictive to ayahuasca since it is not an addictive drug. He does not know of any long-term effect from the use of the drug. There has not been enough study time to determine if and what the long-term effects may be. There is no research ongoing at this time on the effects of dimethyltryptamine, the active ingredient in ayahuasca. (Tr. 109-113)

The research shows that basically hallucinogenic drugs like psilocybin are safe to administer to people once they have been properly medically and psychologically screened, and the drugs are administered in a controlled setting like a laboratory with trained personnel administering and overseeing the drug use. He is aware the Applicant attended ceremonies using the ayahuasca drug in Peru. He is not aware of any medical or psychological screening Applicant received prior to attending the ceremonies. There is a long-standing indigenous tradition of use of the substance in religious or spiritual settings. He does not know if there are any medically-qualified personnel that oversee the ceremonies. He cannot recommend for or against attending the ceremonies since there are many variables to consider, including no medical and psychological screening and no proper medical supervision. (Tr. 113-124)

He examined the four articles sent to him and admitted as AX D, AX E, AX F, and AX G. He believes the articles are sound and well written. He agrees with the conclusion of the author of the article at AX E that "further clinical investigation is still warranted to assess the efficacy of ayahuasca for substance dependent treatment in comparison to current best treatment practices." He also agrees with the conclusion of the authors in the Article at AX G that clinical studies would help determine the therapeutic effects of the potential therapy. The witness stated that the conclusion to be drawn from the articles is that ayahuasca therapy is not ready to be available to the general public for use in the United States. The witness agrees that further studies and research are needed to understand any relapse to drug-use problems in the first three years of abstinence and the long-term management of recovery. He stated further clinical studies on the anti-craving mechanism for ayahuasca are highly recommended. He also concluded that there is not enough understanding of how the drug works in the brain. (Tr. 124-131)

In his response to the SOR, Applicant presented three letters of recommendation. The first letter is from a medical professional who has known Applicant for almost his entire life. He knows Applicant has suffered from alcohol and drug abuse. He believes Applicant has made life changes to successfully overcome his substance abuse. He believes Applicant realizes his drug and alcohol abuse problem and has attempted to self-medicate to overcome underlying personal and psychological issues. The author believes that Applicant's wife divorcing him was a trigger to help Applicant resolve and change his self-destructive behavior. Applicant did not find

traditional methods helpful in resolving his addictive problems. Applicant found non-traditional treatment in Peru to be helpful for him. The letter writer opined that Applicant is now a completely different person. He socializes better, is happy, sober, clean, and a productive member of society. The author has no doubt that Applicant has made a lasting change to his life.

The second letter is from his employer's human resource manager. It was also admitted at the hearing as AX A. She writes that the Applicant is an exceptional employee with a work ethic and technical skills that make him a valuable team member. Applicant has always been on time for work and volunteers his time to support the non-profit organizations the company supports.

The third letter is from a fellow employee. The same author sent a similar letter that is admitted as AX B. He has known Applicant since 2008 when he was Applicant's direct supervisor and hiring manager at another company. When he moved to another position in 2010, he encouraged Applicant to move with him. Applicant was hired by their present employer on the author's recommendation. He saw Applicant's substance abuse as well as his recovery. When Applicant was abusing both alcohol and drugs, his work never faltered. He told the letter's author, who was his supervisor at the time, of his struggles with alcohol and drugs. When he hit "rock bottom" after his wife divorced him, Applicant sought treatment and found a spiritual answer to his problems. He has seen Applicant's turnaround in his life. As Applicant started this process, the letter writer assisted him in his recovery. Over the last three years, Applicant has been a happier and healthier person. He has seen Applicant's transformation and personal growth. Applicant now has a different set of friends and hobbies. The letter's author has no reservations in recommending Applicant for a security clearance.

After the hearing, Applicant submitted a written statement that he will not use illegal drugs or become intoxicated by alcohol while holding a security clearance. He is willing to undergo drug testing and alcohol screening. If he uses illegal drugs or becomes intoxicated, he understands that his security clearance could be immediately revoked. (AX K)

Policies

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 must 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 overarching 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 in seeking a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline H: Drug Involvement

The use of an illegal drug or misuse of a prescription drug can raise questions about an individual’s reliability and trustworthiness, because it may impair judgment and raises questions about a person’s ability or willingness to comply with laws, rules, and regulations. Drug abuse is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction. Drugs are defined as mood and behavior altering substances, including drugs material and other chemical compounds identified and listed in the Controlled Substances Act of 1970. Dimethyltryptamine, the active ingredient in ayahuasca, methamphetamine, cocaine, and marijuana are listed as Schedule I drugs. (AG ¶ 24)

Applicant admitted abusing a large variety of illegal drugs, to include methamphetamine, cocaine, and marijuana, from 1987 until January 2012. Applicant’s drug use includes the use of Adderrall in a manner deviating from approved medical direction. He admitted to the purchase of illegal drugs and a failure to complete a drug and alcohol rehabilitation program. He admitted using another drug, ayahuasca, which is illegal in the United States but legal in Peru where he used it, three times in 2012.

Under these circumstances, the evidence is sufficient to raise the following disqualifying conditions under Drug Involvement AG ¶ 25:

(a) any drug use; and

(c) illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

I considered Drug Involvement Mitigating Conditions under AG ¶ 26:

(a) the behavior happened so long ago, was so infrequent, or 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; and

(b) a demonstrated intent not to abuse drugs in the future, such as; (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; (3) an appropriate period of abstinence; and (4) a signed statement of intent with automatic revocation of clearance for any violation.

For both drug and alcohol abuse, there is no "bright line" rule for determining when conduct is recent or sufficient time has passed since the incidents, a determination whether past conduct affects an individual's present reliability and trustworthiness must be based on a careful evaluation of the totality of the evidence. If the evidence shows a significant period of time has passed without evidence of an alcohol or drug issue, there must be an evaluation whether that period of time demonstrates changed circumstances or conduct sufficient to indicate a finding of reform or rehabilitation.

Applicant's extensive knowing and willful illegal drug use is recent, frequent, and can recur. His long-term use of illegal drugs casts doubt on his current reliability, trustworthiness, and good judgment. Applicant demonstrated some limited intent not to abuse drugs in the future. He changed his environment by moving to a different part of the country. He executed a document with an automatic revocation of his security clearance for future illegal drug use. However, the major thrust to show changed circumstances and his intent not to abuse drugs in the future is based on his use of the alternative treatment methods of the drug ayahuasca. Ayahuasca is an illegal drug in itself. There may be some promise that the drug can be used to overcome addictive behavior. However, a careful review of the scientific literature provided by Applicant and the testimony of Applicant's expert witness shows that the scientific basis to conclude the use of ayahuasca will overcome addictive behavior for illegal drugs has not been scientifically established. The research is too new, not extensive, and uncertain. The authors of the scientific articles and the expert witness stated that more extensive research is required to know if ayahuasca can make a person have a changed circumstance or conduct sufficient to indicate a finding of reform or rehabilitation.

Applicant's evidence in support of rehabilitation and changed circumstances is his use of the drug, ayahuasca, which is illegal in the United States. Ayahuasca causes the same feeling in the individual as other hallucinogenic drugs. It is the use of an illegal drug to overcome the use of another illegal drug. Both the illegal drugs Applicant used for many years and his recent use of ayahuasca can lead to impaired judgment raising questions of his reliability and trustworthiness to properly safeguard classified information. Applicant has not presented sufficient information to mitigate his long-term illegal drug use.

Guideline G Alcohol Consumption

Excessive alcohol consumption is a security concern because it 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 ¶ 21)

Applicant admitted that he extensively consumed alcohol with various frequencies to the point of intoxication from 1986 until 2009. He admits to being arrested for alcohol-related offenses including public intoxication and driving under the influence of alcohol. He also admits to employment issues caused by excessive alcohol consumption. Applicant's extensive alcohol consumption is binge drinking. He attended substance abuse treatment for both alcohol and drug addiction, and left one program before it was completed. Applicant's admissions are sufficient to raise the following Alcohol Consumption Disqualifying Conditions under 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;

(b) alcohol-related incidents at work, such as reporting to work or duty in an intoxicated or impaired condition, or drinking on the job, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent; and

(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.

23: I considered the following Alcohol Consumption Mitigating Conditions under AG ¶

(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;

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of action taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

(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; and

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

Applicant abused alcohol for over 20 years, starting when he was only a teenager. He stopped consuming alcohol to excess when he awoke after passing out from alcohol consumption and realized he could have seriously harmed someone while he was intoxicated. From that point on, he states he has not consumed alcohol to excess. He does not attend any alcohol rehabilitation programs or aftercare. He states he has not consumed alcohol to excess in over six years, but he still consumes alcohol.

The evidence he presented is not sufficient to show a change of circumstance. He may be able to now somewhat control his alcohol consumption impulses. However, since he still consumes alcohol and is not in any treatment or counseling program, he can relapse into alcohol abuse. The evidence shows that Applicant has not been reformed or rehabilitated, and he has not mitigated security concern for alcohol consumption. Applicant presents an unacceptable security concern based on alcohol consumption. Applicant has not established a pattern of abstinence and has not shown sufficient evidence of action taken to overcome his alcohol consumption problems

Applicant cited two decisions by other DOHA administrative judges, AX I, ISCR Case No. 14-00143, (Aug 13, 2014), and AX J, ISCR Case No. 07-13294, (Dec 30, 2008). Decisions by other administrative judges may be persuasive, but they are not precedential. I have considered both decisions and determine that they are not controlling in this case. Both cases deal only with drug abuse and not drug and alcohol abuse. There are also substantial factual differences in the frequency, length, and types of drugs used to make these cases irrelevant to the present case.

Whole-Person Analysis

Under the whole-person concept, the administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all

relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

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

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered the opinion of Applicant's wife, friends, and colleagues that he no longer abuses drugs and alcohol. I considered their opinion that Applicant is trustworthy, honest, and reliable. However, this information does not offset the significant information concerning Applicant's extensive alcohol and drug abuse. Applicant abused alcohol and illegal drugs for over 25 years. He used a drug illegal in the United States that supposedly cured his drug abuse. Medical information shows that the research on this drug has not been completed and that it is too early to tell if this is an effective drug abuse treatment. He indicates that he has not abused alcohol since 2009 but he still drinks alcohol on special occasions, and he is not in an alcohol treatment program. Applicant's use of alcohol and illegal drugs indicates that he may not be concerned or act responsibly in regard to classified information. Overall, the record evidence leaves me with questions and doubts as to Applicant's judgment, reliability, trustworthiness, and eligibility and suitability for a security clearance. For all these reasons, I conclude that Applicant has not mitigated security concerns arising from alcohol and drug abuse. Eligibility for access to classified information is denied.

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 C:	WITHDRAWN
Subparagraph 1.a:	Withdrawn
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraphs 2.a - 2.f:	Against Applicant

Subparagraph 2.g:	For Applicant
Subparagraphs 2.h – 2.i:	Against Applicant
Subparagraph 2.j:	For Applicant
Subparagraph 2.k – 2.l:	Against Applicant
Subparagraph 2.m:	For Applicant
Paragraph 3: Guideline G:	AGAINST APPLICANT
Subparagraphs 3.a- 3.d:	Against Applicant
Subparagraph 3.e:	For Applicant

Conclusion

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

THOMAS M. CREAN
Administrative Judge