DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 21-02185
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Brittany White, Esq., Department Counsel
For Applicant: Troy Nussbaum, Esq.

08/10/2023

Decision

RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the security concerns under Guideline I, psychological conditions, Guideline G, alcohol consumption, and Guideline E, personal conduct Eligibility for access to classified information is granted.

Statement of the Case

On January 11, 2022, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline I, psychological conditions, Guideline G, alcohol consumption, and Guideline E, personal conduct. The action was taken under Executive Order (EO) 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 on June 8, 2017.

Applicant answered the SOR on July 29, 2022, and he requested a hearing before an administrative judge. The case was assigned to me on May 8, 2023. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on May 19, 2023,

scheduling the hearing for July 6, 2023. I convened the hearing as scheduled. The Government offered exhibits (GE) 1 through 5. Applicant objected to GE 4. The objection was overruled. GE 1-5 were admitted in evidence. Applicant testified, and he offered Applicant Exhibits (AE) A through K. There were no objections, and the exhibits were admitted in evidence. The record was held open until July 26, 2023, to permit Applicant an opportunity to provide additional documents. He did not and the record closed. DOHA received the hearing transcript on July 17, 2023.

Procedural Matters

The Government moved to amend SOR ¶ 1.a by deleting the last sentence, which said, "You were diagnosed with Bipolar Disorder."

The Government moved to amend SOR ¶ 1.b by deleting "2.d" and adding "2.f."

The Government moved to amend SOR ¶ 2.b by deleting "Driving Under the Influence."

There were no objections, and the motions were granted.

Administrative Notice

The Government requested I take administrative notice of information about alcoholism from a document from the National Institute of Health (Hearing Exhibit (HE) I) and from the Diagnostic and Statistical Manual of Mental Disorders, 5th edition (DSM) (HE II). There was no objection, and I have taken administrative notice of the information.

Findings of Fact

Applicant admitted the allegations in SOR ¶¶ 2.d and 2.f. He partially admitted and denied the allegation in SOR ¶ 1.b. He denied the allegations in SOR ¶¶ 1.a, 1.c, 1.d, 2.a through 2.c, 2.e, 2.g, and 3.a. His admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 48 years old. He earned bachelor's and master's degrees. He married in 2004 and divorced in 2015. He has a 15-year-old child from the marriage. He has worked for federal contractors since approximately 2007 and for the same federal contractor since 2011. He has held a security clearance during this time without incident. He was also employed part-time as an adjunct instructor for a college from 2006 to 2019. (Tr. 41-43; GE 1)

Alcohol Consumption

Applicant started college when he was 18 years old, and he pledged a fraternity. Alcohol use was part of the culture of fraternity membership and the first time he was

intoxicated was on pledge day in 1993. Before then he had experimented with alcohol use infrequently but was never intoxicated. He lived in the fraternity house as a freshman and every event at the fraternity house involved alcohol. He testified that while in college he regularly used alcohol and became intoxicated. He said that while he was married from 2004 to 2015 he used alcohol on a limited basis but there were times he used it in excess and to the point of intoxication. (Tr. 43-46)

In 1993, at the age of 18, Applicant was arrested and charged with consumption of alcohol by a minor. He was a passenger in a car when it was pulled over by the police. He was given a field sobriety test and failed. He pleaded no contest and was required to attend a class for those charged with driving under the influence (DUI) of alcohol and to perform community service. He completed both requirements. (Tr. 46-47; GE 3)

In 1995, Applicant was driving from a club to his fraternity house. He was stopped by the police, given a field sobriety test, and failed. A blood alcohol test was not administered. He was charged with DUI. He pleaded guilty, was required to attend DUI school, perform community service, and was on probation. He completed the terms of the sentence. (Tr. 47-48; GE 3)

In 1999, Applicant was driving to his fraternity house after leaving a party. He completed a U-turn too fast and was stopped by police. He completed a field sobriety test and was arrested because he was impaired. He was 24 years old at the time. He was charged with DUI. He pleaded guilty. As part of his sentence, he was required to complete a 12-week alcohol abuse treatment program, perform community service, and he was on probation. Applicant credibly testified that since his 1999 DUI arrest and conviction, he has had no additional police involvement regarding his alcohol use. He testified that he was young and made some bad decisions. (Tr. 48-51; GE 3)

Applicant testified that to comply with his sentence, from April 2000 to September 2000, he attended the court-ordered group therapy as an outpatient. He said the therapy was not specific to alcohol abuse. He successfully completed the program and did not receive a diagnosis. There was no aftercare required. He testified that at that time he did not feel like he needed to attend Alcoholics Anonymous (AA). He said he tempered his alcohol consumption but continued to drink. He finished college and moved on with his life and left the fraternity scene. (Tr. 51-53, 130)

Applicant testified that in February 2019 he changed his alcohol consumption because he thought he had a problem. He discussed it with his fiancée. He made the decision that day to attend an alcohol recovery program and entered the program the same day. He said that he and his fiancée had arguments that were fueled by alcohol. When they moved in together his alcohol consumption increased. She would drink two to four drinks a night and alcohol was part of their relationship. His decision to attend treatment ended their relationship. He said he did not think she wanted to live in a sober house. He was in treatment for 30 days. During that time, she ended the relationship and told him not to return to the house. They had been together for three years. He said the break-up was emotionally crushing. (Tr. 55-58, 125-128)

After completion of the program, he was aware that he should not consume alcohol and it was recommended he attend AA. He attended AA and leaned on the community during his breakup and attended additional meetings. He said it was difficult to stay sober. When he completed the rehabilitation program, he said he was never told of any type of diagnosis. He attended AA for about a year until approximately March 2020 and stopped because he was not comfortable with the spiritual aspect of AA. Instead, he began to participate in Smart Recovery, which is an alternative to AA that has more of a cognitive psychological and scientific approach to sobriety. Participants develop a community of people and meet regularly to analyze behavior and actions. He started by attending three meetings a week, and since the spring of 2020, he attends weekly meetings. He finds it is easier for him to subscribe to their program than to AA. He did not receive an independent evaluation regarding a diagnosis of bipolar disorder while in treatment. Applicant testified he told the treatment facility that he was being treated for the condition. (Tr. 58-68, 139-144; AE E)

Applicant was interviewed by a government investigator in April 2019. He questioned some of the information the investigator included in the summary of his interview. He said he does not think he would have been able to estimate how many drinks he had per occasion while in college. He denied 6 to 12 beers every weekend. He admitted that from December 2017 to February 2019 he was consuming alcohol three to six times a week and towards the end of this period it was between 50-75 ml of vodka each time. (Tr. 53-55, 132)

Applicant admitted he relapsed in July 2021. He testified that he had not really accepted that he had a problem or that he was an alcoholic. He was going through the motions to see if he could control himself. He started to drink and was unable to stop for several days. In September 2021, he tried to drink again because he was still not convinced that he did not have control. He binge drank for several days. (Tr. 68-72, 138-139)

Applicant testified that on September 13, 2021, he had an epiphany and realized he could not keep doing what he was doing. He committed to complete sobriety that day. He acknowledged that he tested the waters before because he did not want to believe he had no control over his alcohol consumption. He thought he could control it but could not. He testified that he knows he can totally abstain, but if he has one drink, he cannot stop. He credibly testified that he will not consume alcohol ever again. He accepts he is an alcoholic, and he will always be in recovery. He signed a letter of intent never to consume alcohol again. He admitted that in the past he may have said he would not consume alcohol again and did, but when he made those statements, he had not accepted the fact that he is not in control and is an alcoholic. He now has. (Tr. 68-76; AE K)

Psychological Conditions

From about August 2017 to May 2018, Applicant received treatment from a counseling center. He was seen by Dr. T.S., a psychologist. He said he was in a new relationship and was having anxiety. Dr. T.S. diagnosed him with adjustment disorder

with mixed anxiety, and depressed mood. He saw her minimally once a month and sometimes twice a month. (Tr. 76-78, 82, 118-119; AE D)

Applicant testified that he received treatment from J.A., a nurse practitioner with a psychiatric specialty, from about April 2018 to November 2020. He disputes that he refused medication and said he took all prescribed medication as required. He said J.A. diagnosed him with bipolar disorder and prescribed him between 10 and 15 medications. He testified that some of medications had serious side effects, others required monitoring through blood work; and some made him feel catatonic. His fiancée at the time told him he needed to have J.A. check his medications. J.A. conducted her work through email and changed his medication multiple times. He decided he could not accept her trial and error approach. He and J.A. frequently discussed his medications and dosages. When J.A. diagnosed him with bipolar disorder, he said it was a surprise because he had never had a manic episode. He researched the different levels of bipolar disorder, and he believed his symptoms could be attributed to other psychological disorders. He was skeptical of the diagnosis but agreed to continue on medication. He testified that J.A. was aware that he consumed alcohol but not that he had a problem. She never mentioned that a potential alcohol use disorder could possibly mimic symptoms of bipolar disorder. (Tr. 60, 78-83, 93, 119-125, 135-137; GE 4)

Applicant testified that he informed Dr. T.S. of J.A.'s diagnosis of bipolar disorder. He said she was surprised and warned him to be cautious. He considered getting a second opinion but thought he would give the medication a try. He testified he always followed J.A.'s directions when she changed his medications. He said he would continue to take the prescribed medications until something new was prescribed. In 2020, he stopped seeing J.A. because she left the practice, and her new practice did not accept his insurance. (Tr. 78-83)

In December 2020, Applicant began seeing R.J., a nurse practitioner with a psychiatric specialty. He said she did not believe he had a bipolar disorder, and she did not treat him for it. Her concern was his insomnia. She prescribed medication for his insomnia. He testified that she never diagnosed him with bipolar disorder. He informed R.J. that he had gone to alcohol treatment and that he had an alcohol use disorder. He is on two medications she prescribed that are not habit forming and do not interfere with his commitment to sobriety. In June 2021, R.J. left the practice and Applicant was transferred as a patient to M.B, a nurse practitioner with a psychiatric specialty. (Tr. 83-89)

Applicant continues to take two medications prescribed by M.B. and she has changed his dosage because he wants to take as little medication as possible and minimize side effects. He testified that M.B. has not diagnosed him with bipolar disorder. She is aware of his past alcohol abuse. A statement was provided by M.B. (March 18, 2022) verifying that Applicant has been under her care since June 2021 and meets with her monthly. He has been consistently compliant with his treatment plan and reports long-term stability at current medication dosages. He has diagnoses of sleep disorder and generalized anxiety disorder. She described him as asymptomatic for several consecutive months. He is steadily cooperative, euthymic, clear, alert, insightful and organized. She

also noted Applicant had granted permission to release his medical information, and she was available to provide additional information. He plans to continue his treatment with M.B. (Tr. 89-95, 148; AE C)

Applicant testified that when he was being treated by J.A. he felt terrible. He said since being treated by M.B. he is able to function and feels balanced. He described his functioning level as the difference between night and day, from when he was being treated by J.A. He now has his issues under control with the treatment provided by M.B. He has followed her treatment plan and credibly testified that he would not discontinue any medication without consultation from a medical professional. (Tr. 89-95)

Since September 2022, Applicant also has been a patient of J.B, a licensed clinical social worker. He meets with her at least monthly and sometimes twice a month. He sees her about dealing with his sobriety and how to lead a sober life and potentially having a romantic relationship in the future. She provided a letter stating Applicant has been consistently compliant with his treatment plan and attendance. He is engaged in therapy to better himself in both his personal and professional life and relationships. He continues to exhibit long-term stability in his sobriety and medication compliance. (AE J)

Applicant testified that he is not afraid to seek help and has been proactive since 2017 with regards to his mental health. He is committed to maintaining his medication and treatment. If he believed he was bipolar he would seek the necessary treatment and follow prescribed protocol. (Tr. 108-110)

The DOD requested that Applicant participate in a psychological evaluation by a government-approved psychologist. In June 2021, he was evaluated by Dr. B. Applicant testified that he had a 43-minute virtual meeting using the Zoom platform. Dr. B sent him a computer link to complete a multiple choice test that took approximately an hour to complete. He described her as clinical and not open. He did not feel comfortable with her because of her demeanor, so he was not comfortable discussing private matters in his life with her. She made no attempt to make him feel comfortable. Her questions were not open ended, but rather required a yes or no answer, so that is the type of answer he provided. He said he told Dr. B that J.A. had diagnosed him with bipolar disorder, but later R.J. did not agree with the diagnosis. He testified that Dr. B did not discuss bipolar disorder with him. He said he was honest, but not open because of the way she conducted the interview. He answered the questions she asked. He disputed several of the facts as inaccurate that Dr. B used in her evaluation. (Tr. 95-104)

Dr. B noted that Applicant was cooperative but his answers were inconsistent with medical documentation. She administered the Personality Assessment Inventory (PAI). The validity scales indicated considerable defensiveness. She said, "[H]e appears motivated to portray himself as being exceptionally free of common shortcomings to which most individuals will admit." She believed due to this, his PAI clinical scale is unlikely to be a valid reflection of his current level of functioning. She found his treatment motivation is a great deal lower than of typical individuals being seen in treatment settings. (GE 5)

Dr. B diagnosed Applicant based on her interview, a review of available records and an analysis of current psychological results as follows: bipolar disorder, unspecific; generalized anxiety disorder; and alcohol use disorder, severe. She could not determine if he had type I or type II bipolar disorder. She noted he had been noncompliant with treatment for both anxiety and bipolar disorder. She noted he was not forthcoming with information about his alcohol use, which suggested he is unlikely to be fully in recovery. She noted his lack of candor. She believed he was at high risk of relapse for his alcohol use disorder, as well as manic and/or depressive episodes. She believed he has been dishonest, making his trustworthiness questionable. She found he may not follow rules and regulations and had multiple conditions that could impact his conduct. She found he could display poor judgment and reliability and that he was at risk for impulsive behavior. His ability to safeguard classified information is likely to be compromised and his prognosis is poor. It does not appear she contacted Applicant's treating therapist or nurse practitioner or any of the others. (GE 5)

On February 10, 2023, Applicant was evaluated by Dr. C, a licensed psychologist. She noted that she was privy to the SOR allegations and a reported diagnosis of bipolar disorder, general anxiety disorder, and alcohol use disorder. She also noted that it was alleged that Applicant reportedly had been dishonest to Dr. B about his mental health treatment and alcohol use that called into question his reliability, trustworthiness, and good judgment. Dr. C conducted her examination through video-teleconference. Dr. C asked Applicant his perspective about the allegations in the SOR, and he indicated that it all started when he checked himself in for alcohol rehabilitation and it was required to be reported to DOD. (Tr. 104; AE A)

Dr. C reviewed the SOR, documents from his counseling services, Dr. B's report, behavioral recovery certificate, and miscellaneous records and letters from his previous treatment providers. She also conducted a semi-structured clinical interview, observations, administration of objective personality measure, PAI, and subjective report symptoms via the Clinically Useful Depression Outcome scale, Post-traumatic Stress Disorder checklist, drug abuse screening test, mood disorder questionnaire, and alcohol use disorder identification kit, among other tests. (AE A)

Dr. C noted that J.A. diagnosed Applicant with bipolar disorder in April 2018 but noted that diagnostically it was unclear from the medical record why J.A. believed Applicant met the diagnostic criteria for bipolar as it does not appear he specifically endorsed symptoms of mania or hypomania. She noted, however, that Applicant did endorse excessive use of alcohol in June 2018 and that J.A. should have re-evaluated her diagnostic impression. Dr. C noted that Applicant saw J.A. monthly and reported concerns of depression and alcohol misuse secondary to relationship distress until he self-referred to alcohol treatment in February 2019. (AE A)

Dr. C noted that Applicant reported he was coping with stress through alcohol and he was becoming a person he did not want to be. He was drinking a fifth of vodka or more daily. He reported his fiancée broke up with him during treatment and he also lost friends who took her side. He said while participating in treatment he was diagnosed with bipolar

disorder II, generalized anxiety disorder and alcohol use disorder. Dr. C asked Applicant why he believed he was diagnosed with bipolar disorder, and he indicated "well I told them I was diagnosed with it and they had to keep me on my medication because you can't just go off that medication." After he completed treatment, he returned to therapy with J.A. who subsequently left the practice. Applicant told Dr. C after he completed alcohol treatment, he wondered if he met the criteria for bipolar disorder and said he asked to be re-evaluated because he had discontinued use of alcohol. When he was transferred to R.J. she re-evaluated him and diagnosed him with primary insomnia and alcohol use disorder in remission until May 2021. (AE A)

Dr. C noted that in June 2021, Applicant began treatment with M.B., and continues to see her monthly to this day. She has never diagnosed him with mood disorder but instead with generalized anxiety disorder and sleep disorder. He is prescribed medication and has reportedly been compliant with all treatment sessions and medication. (AE A)

Dr. C also noted that Applicant sees J.B., a licensed clinical social worker. He has seen her biweekly since approximately September 2022 with care focused predominately on increased anxiety in social interactions since COVID. Applicant reported that the majority of his treatment is focused on what his social life will look like now that he is sober and trying not to be a hermit. (Tr. 107; AE A)

Applicant disclosed to Dr. C that he has been sober since September 13, 2021, and that he relapsed twice when he tested the waters to see if he could control his drinking. (AE A)

Dr. C specifically and thoroughly focused her clinical interview and questions about symptoms of bipolar disorder. She stated: "Upon further inquiry, it is possible that his previous provider, [J.A.] misidentified his symptoms of substance use with those of hypomania and failed to appropriately reevaluate his symptom presentation upon his sobriety." (AE A page 5)

Dr. C had Applicant complete several psychological screeners. The results of the tests are as follows:

Clinically Useful Depressive Outcome Scale = 1, not suggestive of depression.

Generalized Anxiety Disorder-7 = 0, not suggestive of anxiety.

PTSD Checklist for DSM-5 = 5, not suggestive of trauma disorder.

Alcohol Use Disorders Identification Test = 2, suggestive of low risk alcohol consumption at this time.

Drug Abuse Screening Test-10 = 0, not suggestive of problematic drug use.

Mood Disorder Questionnaire = not indicative of a mood disorder diagnosis.

Dr. C concluded:

> Collectively, [Applicant's] scores on these screeners reflect an individual who is not experiencing significant symptoms of psychological distress at this time but has had difficulties with alcohol misuse in the distant past. Consistent with self-report, [Applicant] endorsed a pronounced history of alcohol use since college but not understanding the true impact of alcohol use on his functioning until approximately 2018. (AE A)

Dr. C was asked whether she agreed or disagreed with Dr. B's findings. She stated:

> In general, as an objective third party to [Dr. B's] report, I found the evaluation to be lacking in thoroughness and objectivity given the gravity of the circumstances for which the evaluation was conducted. This ultimately casts doubt on the reliability and validity of the findings. [Dr. B] repeatedly relied on historical data without providing context or an opportunity for [Applicant] to provide insight into the factors that contributed to conflicting information. (AE A)

Dr. C provided specific details of why she questioned Dr. B's findings. She specially noted that Dr. B's diagnoses of bipolar disorder, unspecified; alcohol use disorder, severe were primarily based on historical data with limited current behavioral examples that would have helped to understand how she arrived at these diagnostic conclusions. Dr. C stated:

> There was also no evidence that she conducted a contemporaneous, structured or semi-structured review of bipolar disorder (to include hypomanic or manic) symptoms before labeling [Applicant] with this condition that he denied having at the time of her evaluation. It appears [Dr. B] relied heavily on a combination of inaccurate historical medical data and the results of the Personality Assessment Inventory (PAI), which was notably lacking in elevations and specificity. (AE A page 7)

Dr. C concluded that in her opinion Dr. B's evaluation lacks rigor and specificity and should not be used as a primary aid in making decisions about [Applicant's] security clearance eligibility. (AE A)

Dr. C diagnosed Applicant with Generalized Anxiety Disorder, Insomnia Disorder, and Alcohol Use Disorder, Moderate, in Sustained Remission. She did not find evidence to support a diagnosis of Bipolar Disorder II. She noted that Applicant has a history of symptoms that could be misconstrued as hypomanic in the context of an active substance use disorder. She noted his previous provider failed to adequately and appropriately reevaluate his symptom presentation based on his subsequent sobriety. She also noted that Dr. B continued to fail to adequately evaluate [Applicant's] presentation during her evaluation, instead relying on erroneous historical data and PAI results that failed to provide rationale for the diagnoses offered. (AE A)

Dr. C stated Applicant's prognosis is good. She found Applicant presently met the diagnostic criteria for mental health conditions that are well controlled or currently in sustained remission. Although he meets the criteria for several mental health conditions, he is receiving appropriate mental health care for these conditions and is actively engaged, receptive to multiple treatment modalities, and willing to implement interventions offered by his treating providers. She found he does not currently have a mental health condition that could cast doubt on his reliability, trustworthiness, judgment, or ability to safeguard sensitive or classified information or that would impair his reliability, trustworthiness or judgment in protecting sensitive or classified information. (AE A page 9)

Applicant provided documentation of numerous awards and recognitions he has received throughout his life. He provided information about his education, certifications, and publications along with other professional accomplishments. (AE F, G, H)

Applicant provided character letters. He is described as devoted, organized, dedicated, loyal, reliable, trustworthy, responsible, caring, charismatic, insightful, confident, honest, and smart. He was repeatedly recommended to hold a security clearance. (AE I)

Policies

When evaluating an applicant's national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used 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 national security eligibility will be resolved in favor of the 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or

mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining 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 an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 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

AG ¶ 21 expresses the security concerns for 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 describes conditions that could raise a security concern and may be disqualifying. I find the following to be potentially applicable:

> (a) alcohol-related incidents away from work, such as driving 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;
>
> (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;
>
> (d) diagnosis by a duly qualified medical or mental health professional (e.g. physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;
>
> (e) failure to follow treatment advice once diagnosed; and
>
> (f) alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder.

Applicant consumed alcohol infrequently from the age of 15 to 18 and then with varying frequency, sometimes in excess to the point of intoxication, from age 1993 to 2019. He was convicted of alcohol consumption as a minor in 1993. He was convicted of DUI in 1995 and again in 1999. As part of his 1999 DUI sentence, he attended outpatient alcohol treatment in 2000. He self-reported and admitted himself into an alcohol treatment program in 2019. He was aware he should abstain from future alcohol consumption. He relapsed on two occasions. He was diagnosed by a government psychologist in June 2021 with alcohol use disorder severe, among other diagnoses that will be discussed under the psychological condition guideline. All of the above disqualifying conditions apply.

The guideline also includes conditions that could mitigate security concerns arising from alcohol consumption. I have considered the following mitigating conditions under 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 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 or 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.

Applicant has not had an alcohol-related incident since 1999, almost 24 years ago. I find the three alcohol-related offenses are mitigated by time and future incidents are unlikely to recur due to Applicant's commitment to sobriety.

In 2019, Applicant decided that he had a problem with alcohol and later the same day he enrolled as inpatient in a treatment program. He readily admits he was in denial for a period after his treatment about his ability to control his use of alcohol. After relapsing twice, he accepted that he must totally abstain from alcohol consumption. It is not unusual for those suffering from alcohol use disorder to stumble before coming to the conclusion that they are powerless over their condition. It is likely that because of his relapses, he was able to fully recognize that he cannot consume any alcohol and that he is an alcoholic. He is committed to his sobriety. He initially participated in AA and has participated in Smart Recovery since September 2021. He is participating in therapy with

J.B. to help him navigate his sobriety and relationships. I found Applicant credible that he intends to never consume alcohol again. All of the above mitigating conditions apply.

Guideline I: Psychological Conditions

The security concern for psychological conditions is set out in AG ¶ 27:

> Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist, or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative interference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

The guideline notes several conditions that could raise security concerns. I have considered all of the disqualifying conditions under AG ¶ 28, and the following are potentially applicable:

> (a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors; and
>
> (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
>
> (c) voluntary or involuntary inpatient hospitalization; and
>
> (d) failure to follow prescribed treatment plans related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including but not limited to, failure to take prescribed medication, or failure to attend required counseling sessions.

There is insufficient evidence that Applicant exhibited behavior as described in AG ¶ 28(a). Applicant received counseling from Dr. T.S. from August 2107 to May 2018. SOR 1.a alleges this treatment as a disqualifying condition. Receiving treatment or counseling is not a psychological disqualifying event. I find for Applicant on SOR ¶ 1.a.

SOR ¶ 1.b alleged: "That information set forth in subparagraphs ¶¶ 2.e and 2.f."

SOR ¶ 2.e alleges: "You received alcohol abuse treatment at [BRC] from about February 2019 to about March 2019. You were diagnosed with Alcohol Abuse Disorder and Bipolar II, and General Anxiety."

SOR ¶ 2.f alleges: "You received court mandated alcohol abuse treatment at [GLC] from about April 2000 to about September 2000."

Receiving treatment is not a psychological disqualifying condition. The evidence does not support that Applicant received a diagnosis of Alcohol Use Disorder, Bipolar II, and General Anxiety Disorder by a duly qualified mental health professional while at this treatment facility. The factual allegations were addressed under Guideline G. I find for Applicant for SOR ¶ 1.b.

The evidence supports that Applicant was diagnosed by J.A., a nurse practitioner with a psychiatric specialty, with bipolar disorder. I find there is insufficient evidence to conclude he refused to take his medication. He participated in his medicine management and may have questioned his practitioner, but I do not find the facts are sufficient to support this part of the allegation. He was diagnosed with bipolar disorder, unspecified, generalized anxiety disorder and alcohol use disorder, severe by Dr. B, a licensed psychologist employed by the government. AG ¶ 28(b) applies.

The guideline also includes conditions that could mitigate security concerns arising from psychological conditions. The following mitigating conditions under AG ¶ 29 were considered:

> (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
>
> (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional; and
>
> (c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation.

Applicant was evaluated by Dr. B in June 2021. He was re-evaluated in February 2023 by Dr. C. I have considered the timing and depth of both reports. The evidence supports that Applicant was likely misdiagnosed by J.A. or should have minimally been re-evaluated after he participated in alcohol treatment. My analysis under Guideline G, alcohol consumption, also applies under the psychological issues that were raised regarding his alcohol use disorder diagnosis. I found Dr. C's prognosis based on Applicant's almost two years of sobriety and his active participation in AA and then Smart Recovery to be most probative. She opined that Applicant's prognosis was good and he

does not currently have a mental health condition that could cast doubt on his reliability, trustworthiness, judgment, or ability to safeguard sensitive or classified information or that would impair his reliability, trustworthiness, or judgment in protecting sensitive or classified information. Applicant has been actively participating in addressing any mental health issues for many years. He participated in treatment and has been compliant with his medicine management. AG¶¶ 29(a), 20(b), and 20(e) apply.

Dr. C was not a mental health professional approved by the government, so AG ¶ 29(c) does not apply. However, I give great weight to her unbiased and professional opinion.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15, as follows:

> 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 clearance investigative or adjudicative processes.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

> (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse 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.

The SOR cross-alleges Dr. B's psychological evaluation and opinions alleged in ¶ 1.d under the personal conduct guideline. There was no conduct alleged. Dr. B's evaluation was alleged under Guideline I, psychological conditions and addressed accordingly. I find for Applicant on SOR ¶ 3.a.

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), the ultimate determination of whether to grant eligibility for 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 have incorporated my comments under Guidelines I, G, and E, in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment.

Applicant voluntarily admitted himself for alcohol treatment as an inpatient and then participated in AA and Smart Recovery. Despite stumbling, he realized that he is an alcoholic and can never drink again. He has demonstrated an ongoing commitment to sobriety. Applicant sought advice and therapy for his mental health beginning in 2017. He has seen multiple nurse practitioners and therapists to help him navigate his mental health. He did all of this voluntarily, recognizing he needed help.

The Questionnaire for National Security Positions (SF 86) specifically states:

> The U.S. government recognizes the critical importance of mental health and advocates proactive management of mental health conditions to support the wellness and recovery of Federal employees and others. Every day individuals with mental health conditions carry out their duties without presenting a security risk. While most individuals with mental health conditions do not present security risks, there may be times when such a condition can affect a person's eligibility for a security clearance.
>
> Mental health treatment and counseling, in and of itself, **is not a reason** to revoke or deny eligibility for access to classified information or for holding a sensitive position, suitability or fitness to obtain or retain Federal or contract employment, or eligibility for physical or logical access to federally controlled facilities or information systems. Seeking or receiving mental health care for personal wellness and recovery may contribute favorably to decisions about your eligibility. (GE 1)

Being an alcoholic does not prevent someone from holding a security clearance. Applicant is a success story in that he is recovering and continues to be a productive member of society. His commitment to sobriety is evident. He has dealt with his mental

health by seeking support and guidance from professionals. He has met his burden of persuasion. The record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant mitigated the security concerns arising under Guideline G, alcohol consumption Guideline I, psychological conditions, and Guideline E, personal conduct.

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 I:	FOR APPLICANT
Subparagraphs 1.a-1.e:	For Applicant
Paragraph 2, Guideline G:	FOR APPLICANT
Subparagraphs 2.a-2.b:	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

Conclusion

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

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Carol G. Ricciardello
Administrative Judge