



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



In the matter of: )  
)  
) ISCR Case No. 22-00716  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicholas Temple, Esq., Department Counsel  
For Applicant: *Pro se*

09/18/2023

**Decision**

HARVEY, Mark, Administrative Judge:

Security concerns arising under Guidelines G (alcohol consumption), I (psychological conditions), and E (personal conduct) are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On December 14, 2016, Applicant completed and signed a Questionnaires for National Security Position (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1). The statement of reasons (SOR) was issued on February 3, 2023, to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Transcript (Tr.) 14-15; Hearing Exhibit (HE) 2)

The SOR detailed reasons why security officials concluded it is not clearly consistent with the interests of national security under the Directive 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. Specifically, the SOR set forth security concerns arising under Guidelines G, I, and E.

(HE 2) Applicant provided an undated response to the SOR and requested a hearing. (Tr. 14-15; HE 3) On February 3, 2023, Department Counsel was ready to proceed.

On March 23, 2023, the case was assigned to me. On April 7, 2023, DOHA issued a notice of hearing, setting the hearing for May 24, 2023. (HE 1) The hearing was held as scheduled.

Department Counsel offered five exhibits into evidence, and Applicant offered one exhibit into evidence. (Tr. 10, 19-21; GE 1-GE 5; Applicant Exhibit (AE) A) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 20-21) On June 5, 2023, DOHA received a transcript of the hearing. One exhibit was admitted after his hearing without objection. (AE B) The record closed on June 23, 2023. (Tr. 62,68)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Findings of Fact**

In Applicant's SOR response, he admitted part of SOR ¶ 1.a; and he admitted SOR ¶¶ 2.b through 2.j and 3.a through 3.d. (HE 3) He denied part of SOR ¶ 1.a; and he denied SOR ¶¶ 1.b and 2.k. He did not admit or deny SOR ¶ 2.a. He also provided mitigating information. His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 44-year-old information technology specialist. (Tr. 6, 9) He has worked for his current employer for about one year. (Tr. 9) In 1996, he graduated from high school. (Tr. 6) In 2003, he received an associate degree in computer networking. (Tr. 7) He was married from 2008 to 2017. (Tr. 7, 24) His children are ages 9 and 11, and he is current on his \$738 monthly child support. (Tr. 8) He has never served in the military. (Tr. 8) There is no evidence of criminal offenses, drug abuse, or security violations.

### **Alcohol Consumption and Psychological Conditions**

SOR ¶ 1.a alleges on February 1, 2022, a psychologist, Dr. G, interviewed Applicant, reviewed his medical records, and diagnosed him with Alcohol Use Disorder, Anxiety Disorder, unspecified, and Depressive Disorder, unspecified. He said Applicant was defensive about his alcohol consumption, and he concluded Applicant exhibits issues with reliability and trustworthiness which may impair his ability to protect classified information. Dr. G's evaluation referenced a March 2017 treatment note, which states, "His history of drinking included one pint of vodka daily or more for nine years. He had a history of blackouts. His longest period of sobriety was seven days in 2016 due to pain in the abdomen." (GE 2 at 4) Dr. G concluded that his mental-health conditions pose a significant risk to his judgment and stability in the future unless he obtains treatment and maintains sobriety.

Applicant's first panic attack occurred around 2000 when he was about 22 years old. (Tr. 25) He has received medication for anxiety since 2006. (Tr. 26) He said he consistently takes his anxiety medication, and it has helped him "tremendously." (Tr. 26)

He disagreed with Dr. G's diagnosis of Depressive Disorder. (Tr. 26) He described himself as a "very happy go lucky person." (Tr. 27)

SOR ¶ 1.b alleges on or about February 22, 2017, Applicant was admitted for inpatient treatment after consuming about 200 tablets of the prescription drug Xanax and one pint of vodka in an attempted suicide. In his SOR response, he denied SOR ¶ 1.b, and he said he did not intend to commit suicide or take 200 Xanax tablets.

Applicant said in February 2017, he consumed about a pint of vodka, and he was intoxicated. (Tr. 30, 33) He took about 10, .25 milligram doses of Xanax. (Tr. 30) Applicant said he did not remember why he consumed the Xanax; however, he was not attempting suicide. (Tr. 30) He said an emergency room (ER) note indicating he took about 200 Xanax tablets is an exaggeration. (Tr. 31) He did not have a prescription for such a large amount of Xanax. (Tr. 31) He did not remember what he said in the emergency room. (Tr. 31) He denied that he would have knowingly exaggerated the amount of Xanax he consumed, and he suggested his former spouse may have told someone in the ER that he took 200 Xanax. (Tr. 32) He denied that he ever experienced suicidal ideations or that he attempted suicide. (Tr. 32) In 2017, he was drinking a pint of vodka about twice a week. (Tr. 33) In 2017, he went to "rehab" for about 10 days, and to Alcoholics Anonymous (AA) meetings for about a month. (Tr. 40, 51, 52; GE 5 at 5)

SOR ¶ 2.a cross alleges the information in SOR ¶¶ 1.a and 1.b as an alcohol consumption security concern. SOR ¶¶ 2.b and 2.c allege, and Applicant admits that on January 26, 2011, and on January 4, 2012, Dr. L diagnosed him with Alcohol Abuse, not otherwise specified (NOS). (Tr. 35-36) When he first sought help, he was drinking four or five days a week and about "a few glasses of wine [and] a half a pint of vodka." (Tr. 36) Applicant said on January 4, 2012, Dr. L advised him to decrease his alcohol consumption. (Tr. 37) She said he was supposed to "slow down at the very least" on his alcohol consumption. (Tr. 37) Dr. L did not tell him to abstain completely from alcohol consumption. SOR ¶ 2.d alleges and Applicant admits that on August 28, 2012, he told Dr. L that he continued to consume alcohol, and Dr. L recommended he receive substance abuse counseling. In August 2012, he was consuming a pint of alcohol four times a week. (Tr. 38; GE 3 at 116) At his hearing, he said he did not remember that Dr. L recommended that he obtain substance abuse counseling. (Tr. 37, 40) He was sober for a while, and then he resumed his alcohol consumption. (Tr. 38) Sometimes he hid his alcohol consumption from his spouse. (Tr. 39-40; GE 3 at 116) He did not remember specific information about his level of alcohol consumption or his behavior with his spouse. (Tr. 40) Dr. L. prescribed Campral for him; however, he did not continue taking it because he was worried it would make him sick if he drank alcohol. (Tr. 41)

SOR ¶ 2.e alleges and Applicant admits that he received inpatient treatment from October 14 to October 16, 2013, for renal colic and alcohol abuse. (SOR response) Upon discharge he was advised to cease consuming alcohol due to potential adverse interactions with prescribed anxiety medication. (*Id.*)

SOR ¶ 2.f alleges and Applicant admits that on April 17, 2015, he told Dr. K that he had alcoholism for 10 years and experienced marital discord due to alcohol

consumption. (SOR response) Dr. K diagnosed him with Alcohol Abuse, NOS, and encouraged him to join a substance abuse support group and advised to abstain from further alcohol consumption. (*Id.*) At his hearing, Applicant said he did not remember hiding his alcohol consumption from his spouse. (Tr. 42) He did not remember meeting with Dr. K; however, he accepted that the meeting and diagnosis occurred because it is in his medical record. (Tr. 42-43)

SOR ¶ 2.g alleges and Applicant admits that on March 31, 2016, he told Dr. F he increased his alcohol consumption. (SOR response) He drank almost every day, and sometimes to intoxication. (Tr. 44) Dr. F diagnosed him with Alcohol Abuse, encouraged him to join a substance abuse support group, and advised him to abstain from alcohol consumption. (Tr. 44) He briefly stopped his alcohol consumption, and then, he resumed his alcohol consumption. (Tr. 44) SOR ¶ 2.h alleges and Applicant admits that on September 12, 2016, Dr. F advised him to abstain from alcohol consumption. (SOR response) SOR ¶ 2.i alleges and Applicant admits that on September 19, 2017, he told Dr. F he resumed his alcohol consumption after being hospitalized from October 14 to October 16, 2013. (*Id.*) Dr. F diagnosed him with Alcohol Abuse, encouraged him to join a substance abuse support group, and advised him to abstain from alcohol consumption. (Tr. 45; SOR response)

SOR ¶ 2.j alleges and Applicant admits that on February 28, 2020, Dr. S diagnosed him with Alcohol Abuse, Acute alcoholic gastritis without hemorrhage, and Hepatomegalia (enlarged liver), likely resulting from his alcohol consumption. (Tr. 46; SOR response) However, at his hearing Applicant said he did not remember the Hepatomegalia diagnosis, and recent tests showed his liver was normal. (Tr. 46) Dr. S encouraged him to reduce his alcohol consumption and to join a substance abuse support group. He was prescribed benzodiazepines to reduce withdrawal symptoms, until complete cessation. At his hearing, he said he remembered being prescribed benzodiazepines; however, he did not remember being advised to stop drinking alcohol. (Tr. 46)

In his SOR response, Applicant denied SOR ¶ 2.k, which alleges that he continued to consume alcohol contrary to treatment recommendations described in SOR ¶¶ 2.c, 2.e, 2.f, 2.g, 2.h, 2.i, and 2.j, *supra*. For SOR ¶ 2.c, Applicant said Dr. L recommended that he reduce his alcohol consumption and not that he cease all alcohol consumption. For SOR ¶ 2.j he did not remember being advised to stop drinking alcohol.

From 1999 to about 2006, Applicant drank alcohol to help him cope with anxiety. (Tr. 34) He received medication which helped with his anxiety. (Tr. 34) His alcohol consumption gradually increased, and it peaked around 2015 or 2016. (Tr. 35) He stopped drinking alcohol around May of 2021, except for occasional sips from other people's drinks. (Tr. 47, 49) He completely stopped drinking alcohol in about 2021 or 2022. (Tr. 49) He has a history of consumption of alcohol contrary to the recommendations of health practitioners. (Tr. 50) He does not attend any alcohol counseling such as AA meetings. (Tr. 51) He relies on the support of family and friends. (Tr. 51) He does not receive any mental-health counseling or treatment beyond renewal of his prescriptions. (Tr. 54)

## Personal Conduct

SOR ¶¶ 3.a through 3.d allege and Applicant admits that he failed to disclose information on his December 14, 2016 SCA about his mental-health and suggestions that he receive alcohol counseling. The SCA asked him in the previous seven years: whether he had consulted with a health-care professional regarding an emotional or mental-health condition; and whether alcohol had a negative impact on his professional and personal relationships. His SCA also asked whether he had: ever been ordered, advised, or asked to seek counseling or treatment because of his use of alcohol; and ever sought counseling and treatment because of his use of alcohol. Applicant answered, no, to these four questions.

Applicant understood the questions on his SCA. (Tr. 59) He did not disclose his history of mental health and alcohol treatment on his SCA because he did not think it was an issue for him or in the alternative, he said he did not remember why he did not disclose the requested information. (Tr. 55) His alcohol consumption did not affect his work and did not involve law enforcement. (Tr. 55) He admitted his alcohol consumption had a negative impact on his marriage. (Tr. 56) He did not remember the wording in the SCA's question about being advised to seek alcohol treatment, and he may have considered the question to be asking whether he was ordered to seek alcohol treatment as opposed to a suggestion. (Tr. 56) He answered, no, to the question about mental-health treatment because he believed his mental health "was under control." (Tr. 57) He was unsure about his state of mind at the time he answered the questions on his SCA. (Tr. 58) His best recollection was that he answered no because he "just didn't think it was a big deal." (Tr. 61)

## Character Evidence

On June 14, 2023, Applicant's site manager said:

During [Applicant's] tenure at [his employment], [his] conduct consistently demonstrated a strong sense of integrity and an unwavering commitment to ethical practices. [His] dedication to upholding the highest standards of honesty and reliability was truly remarkable. [He] exhibited a deep understanding of the importance of trust in professional relationships and always ensured that [his] actions reflected this understanding.

One of the most remarkable aspects of [his] work was [his] ability to consistently deliver results while maintaining an impeccable level of transparency. Whether it was handling sensitive information or making critical decisions, [he]. proved to be a trustworthy individual who could be always relied upon to exercise discretion and confidentiality.

Furthermore, [he] consistently exhibited professionalism and reliability in [his] interactions with colleagues, clients, and superiors. [He] consistently took ownership of [his] responsibilities and demonstrated an unwavering dedication to meeting deadlines and delivering high-quality work. [His]

ethical approach to [his] work inspired trust and confidence among both their peers and superiors, fostering a positive and harmonious work environment.

Beyond [his] exceptional work ethic and integrity, [he] displayed a genuine empathy and respect for others. [His] willingness to listen, support, and collaborate created an atmosphere of trust and camaraderie within the team. [His] open-mindedness and ability to consider diverse perspectives greatly contributed to the success of group projects and fostered an inclusive work culture.

I have no hesitation in highly recommending [him] for any future endeavors, as I am confident, he will continue to excel and positively impact any organization [he will] become a part of. I see no reason to revoke or impede his ability to work with us and our valued customer. (AE B)

Applicant's former spouse described him as compassionate, kind, and dedicated to his family. (AE A) He seeks self-improvement and is achieving his goals. (AE A) Applicant made a sincere statement about his goals at work and his desire to support his family. He said:

I am a loving, honest father who just wants to provide for his kids. I love my job. I am very good at my job. I am very well connected with everyone that I work with. They all respect me for my work, my honesty, and my integrity. . . . I've never been disciplined for any reason whatsoever. I'm honest. I'm prudent. I'm respectful [about] everything and anything that I do. I take pride in what I do. I simply just want to be able to have my job. As I said, I've been sober for the last two years. I admit I made mistakes in the past and I'm very regretful for that. . . . But, I'm making the best of what I have now. And, I just, I honestly, I just want to be able to work, do my job. . . . I just want to do the best I can going forward. (Tr. 22-23)

## **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 in this decision should be construed to suggest that it is based, 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, Secretary of Defense, and Director of National Intelligence 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 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 describes the security 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 provides conditions that could raise a security concern and may be disqualifying in this case as follows:

- (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;
- (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) the 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.

The record evidence establishes AG ¶¶ 22(a), 22(c), 22(d), 22(e), and 22(f). Additional discussion is in the mitigation section, *infra*.

AG ¶ 23 lists four conditions that could mitigate security concerns:

- (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.



In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA 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, [App. A] ¶ 2(b).

Applicant's excessive alcohol consumption contributed to his decision to take about 10 Xanax in February 2015. He has a history of repeatedly consuming alcohol to intoxication. He was diagnosed with alcohol use disorder. He failed to follow treatment recommendations from Dr. L in 2012, from an alcohol treatment facility in 2013, from Dr. F in 2016, and from Dr. K in 2017, to reduce or abstain from consumption of alcohol. After some reductions of his alcohol consumption, he resumed his alcohol consumption at significant levels.

None of the mitigating conditions fully apply; however, Applicant provided some important mitigating information. He reduced his alcohol consumption in 2021 to 2022 to a low level, and he stopped consuming alcohol about one year ago. He has never been arrested or convicted of any alcohol-related offense. There is no evidence of security violations, use of alcohol or impairment at work, or abuse of illegal drugs.

Applicant's history of alcohol consumption and the possibility of renewed alcohol consumption to the extent of intoxication and poor decisions casts doubt on his current reliability, trustworthiness, and judgment. More time without alcohol consumption in accordance with treatment recommendations is necessary to reduce security concerns. None of the mitigating conditions fully apply, and Guideline G security concerns are not mitigated at this time.

## **Psychological Conditions**

AG ¶ 27 articulates the security concern for psychological conditions:

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 inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

AG ¶ 28 provides conditions that could raise a security concern and may be disqualifying in this case:

(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 a prescribed treatment plan 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.

AG ¶¶ 28(a), 28(b), and 28(c) are established. See also USAF-M Case No. 23-00056-R at 5-6 (App. Bd. Aug. 31, 2023) (discussing interrelationship between alcohol-related security events and application of AG ¶ 28(a)). AG ¶ 28(d) is not alleged in the SOR, and AG ¶ 28(d) will not be considered as a disqualifying condition. Additional discussion of the disqualifying conditions will be included in the mitigation section, *infra*.

Five mitigating conditions under AG ¶ 29 are potentially applicable:

(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;

(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;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

(e) there is no indication of a current problem.

Applicant was hospitalized after consuming about a pint of vodka and overdosing on Xanax in February 2017. On February 1, 2022, a psychologist, Dr. G, diagnosed Applicant with Alcohol Use Disorder, Anxiety Disorder, unspecified, and Depressive Disorder, unspecified. He said Applicant was defensive about his alcohol consumption, and he concluded Applicant exhibits issues with reliability and trustworthiness which may impair his ability to protect classified information. His evaluation observed that a March 2017 treatment note states, "His history of drinking included one pint of vodka daily or more for nine years. He had a history of blackouts. His longest period of sobriety was seven days in 2016 due to pain in the abdomen." (GE 2 at 4) Dr. G said his mental health conditions pose a significant risk to his judgment and stability in the future unless he obtains treatment and maintains sobriety.

Applicant did not provide a recommendation from a treatment provider, psychologist, psychiatrist, social worker, or other health-care practitioner that his identified condition: (1) is readily controllable with treatment; (2) is amenable to treatment; (3) was temporary and the situation has been resolved; (4) is under control or in remission; (5) is not a current problem; or (6) has a favorable prognosis. See AG ¶¶ 29(a) through 29(e). He is not currently receiving alcohol or mental-health treatment or counseling beyond renewal of prescriptions. There is no schedule of planned assessments to determine his current mental-health status. He receives support from family; however, family and his former spouse's support are not listed in the mitigating conditions for psychological conditions.

Because of the interrelationship between his history of alcohol consumption and his mental health issues, I cannot rule out a recurrence of an episode of poor judgment. As discussed in the previous section, his alcohol consumption raises serious security concerns. Not enough time without alcohol consumption or with responsible alcohol consumption in accordance with treatment recommendations has elapsed. I have lingering concerns that Applicant will again be under stress or suffering from anxiety, will again resume alcohol consumption, and then he may make poor security-related decisions. Psychological conditions security concerns are not mitigated.

## **Personal Conduct**

AG ¶ 15 describes the security concern about personal conduct 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 investigative or adjudicative processes. . . .

AG ¶ 16 includes one disqualifying condition that could raise a security concern and may be disqualifying in this case:

(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.

AG ¶ 16(a) applies and will be addressed in the mitigating section, *infra*.

AG ¶ 17 provides conditions that could mitigate security concerns as follows:

(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; and

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

The Appeal Board has 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)).

Applicant admitted that he failed to disclose requested information on his December 14, 2016 SCA. This SCA asked him in the previous seven years: whether he had consulted with a health-care professional regarding an emotional or mental-health condition; and whether alcohol had a negative impact on his professional and personal relationships. This SCA also asked: whether he had ever been ordered, advised, or asked to seek counseling or treatment because of his use of alcohol; and whether he had ever sought counseling and treatment because of his use of alcohol. Applicant answered, no, to these four questions.

Applicant said he understood the questions on his December 14, 2016 SCA. He was unsure about his rationale for not disclosing the information; however, he suggested that at the time he completed his SCA he did not consider the information to be a "big deal." He failed to honestly and candidly disclose negative information on his SCA. When he answered no, he knowingly and intentionally provided false information with intent to deceive. None of the mitigating conditions fully 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, I, 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 a 44-year-old information technology specialist. He has worked for his current employer for about one year. In 2003, he received an associate degree in computer networking. He was married from 2008 to 2017. His former spouse and supervisor positively described his character, and their statements support approval of his access to classified information. There is no evidence of criminal offenses, drug abuse, violations of his employer’s rules, or security violations.

The evidence against granting Applicant’s access to classified information is more persuasive. Applicant has a history of binge-alcohol consumption. In 2017, Applicant consumed an excessive amount of alcohol and overdosed on Xanax. On February 1, 2022, Dr. G diagnosed Applicant with Alcohol Use Disorder, Anxiety Disorder, unspecified, and Depressive Disorder, unspecified. He said Applicant was defensive about his alcohol consumption, and he concluded Applicant exhibits issues with reliability and trustworthiness which may impair his ability to protect classified information. More importantly Applicant was not candid and truthful when he completed his December 14, 2016 SCA. He did not disclose his history of recommendations, treatment, and counseling for mental-health and alcohol-consumption issues.

It is well settled that once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. “[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant’s eligibility for access to classified information.” ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence to the facts and circumstances in the context of the whole person. Guidelines G, I, and E security concerns are not mitigated at this time.

### **Formal Findings**

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline I:	AGAINST APPLICANT
Subparagraphs 1.a and 1.b:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a through 2.k:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a through 3.d:	Against Applicant

### **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 access to classified information. Eligibility for access to classified information is denied.

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Mark Harvey  
Administrative Judge