



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



In the matter of: )  
)  
) ISCR Case No. 24-00266  
)  
Applicant for Security Clearance )

**Appearances**

For Government: John Renehan, Esq., Department Counsel  
For Applicant: *Pro se*

11/05/2024

**Decision**

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are mitigated; however, Guideline G (alcohol consumption) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On March 31, 2023, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On May 3, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) 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), as amended; 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. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why DOHA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the

SOR set forth security concerns arising under Guidelines F and G. (HE 2) On June 11, 2024, Applicant responded to the SOR. On July 22, 2024, Department Counsel was ready to proceed. On July 30, 2024, the case was assigned to me. On August 9, 2024, DOHA issued a notice setting the hearing for August 23, 2024. (HE 1) The hearing was held as scheduled, using the Microsoft Teams video teleconference system. (HE 1)

During the hearing, Department Counsel offered eight exhibits into evidence, and Applicant did not offer any exhibits into evidence. (Tr. 9, 16; GE 1-GE 8) All proffered exhibits were admitted into evidence. (Tr. 16)

On August 30, 2024, DOHA received a copy of the transcript. The record closed on September 24, 2024. (Tr. 100, 108) Applicant did not provide any documents after his hearing.

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 that he was responsible for the accounts listed in SOR ¶¶ 1.a through and 1.f, 1.i, and 1.j, and he admitted the information in ¶¶ 2.a through 2.d. He said that he made the mistake of drinking too much and driving; however, he does not do that anymore. (HE 3) He said he paid the debts in SOR ¶¶ 1.a through and 1.f, 1.i, and 1.j. He was unable to obtain information from the creditors in SOR ¶¶ 1.g and 1.h. He also provided mitigating information. His admissions are accepted as findings of fact.

Applicant is a 39-year-old vehicle mechanic. (Tr. 6-7) In 2003, he graduated from high school. (Tr. 6) He has never married, and he does not have any children. (Tr. 6-7) He has never served in the military. (Tr. 7) In 2013, he received a diploma in welding. (Tr. 24) He has an associate degree in automotive. (Tr. 24) He has worked for his current employer for two years. (Tr. 7, 18) He was injured at work in March of 2019, and he was unable to work. (Tr. 20-21) He was unemployed from March 2020 to July 2022. (Tr. 20)

### **Financial Considerations**

In 2017, Applicant borrowed funds using credit cards on several accounts, and he made payments for about six months while he was employed. (Tr. 34, 37, 42) In 2018, several of his debts became delinquent when he was unemployed. (Tr. 34, 37) In 2023 after his first Office of Personnel Management (OPM) interview, Applicant paid a credit repair company about \$100 monthly for four or five months; however, he was not satisfied with the results. (Tr. 29-31)

The SOR alleges the following delinquent debts:

SOR ¶ 1.a is a bank debt placed for collection for \$3,234. Applicant opened the account more than six years ago, and it became delinquent several years ago. (Tr. 25-

29) On May 30, 2024, the creditor wrote the debt was paid in full for less than the full balance, and the balance is zero. (HE 3 at 6) Applicant paid about 50 percent of the balance owed when he settled the debt. (Tr. 32)

SOR ¶ 1.b is a bank debt from a payday loan placed for collection for \$3,142. (Tr. 33) Applicant borrowed the funds in 2017 or 2018. (Tr. 33) On May 31, 2024, the creditor wrote that Applicant paid \$1,571 on May 13, 2024, and the debt is resolved. (Tr. 35; HE 3 at 7)

SOR ¶ 1.c is a bank debt from a credit card placed for collection for \$3,098. (Tr. 36) Applicant borrowed the funds around 2017. (Tr. 36) He made eight monthly payments in 2023. (Tr. 39) The account was settled, and it has a zero balance. (Tr. 38)

SOR ¶ 1.d is a bank debt placed for collection for \$2,869. On May 30, 2023, Applicant settled the debt, and the balance is zero. (Tr. 41; HE 3 at 9)

SOR ¶ 1.e is a bank debt placed for collection for \$2,677. In 2024, Applicant paid the creditor \$2,765. (HE 3 at 10) The debt is resolved. (Tr. 43-46)

SOR ¶ 1.f is a debt placed for collection for \$2,456. In 2023 or 2024, Applicant transferred \$1,780 from his bank account to the creditor. (Tr. 46-49; HE 3 at 11) The debt is resolved. (Tr. 49)

SOR ¶¶ 1.g and 1.h are bank debts placed for collection for \$2,183 and \$1,150, respectively. Applicant told the OPM investigator that he believed he paid the debt in SOR ¶ 1.g in 2019 or 2020. (Tr. 49-50) He stopped receiving bills from this creditor. (Tr. 50) He did not recognize the debt in SOR ¶ 1.h. He contacted the creditors in SOR ¶¶ 1.g and 1.h four or five times over the last year, and he asked the creditors for supporting documentation. (Tr. 50-55) The creditors did not provide any supporting documentation. (Tr. 51, 55) If he receives supporting documentation showing that he owes these debts, he will pay them. (Tr. 52, 56)

SOR ¶ 1.i is a debt placed for collection for \$511. Applicant said he believed the debt was paid in May of 2024; however, he did not provide a receipt or other documentation showing the debt was paid. (Tr. 57-58)

SOR ¶ 1.j is a bank debt placed for collection for \$446. The account was opened around 2016. (Tr. 60-61) On May 13, 2024, the creditor wrote \$504 was paid to the creditor, and the debt is satisfied. (Tr. 58; HE 3 at 12) Applicant said he would have paid it earlier; however, he was disputing some of the late charges on the account. (Tr. 59-60)

Applicant believes his financial circumstances are improving because his income has increased to a net of about \$5,000 monthly. (Tr. 61) He owns three cars, and he does not have any car payments. (Tr. 62) His credit report indicates he has several debts in paid or paid as agreed status. (GE 4; GE 5) He completed a personal financial statement, and he has a monthly remainder of about \$2,000 after all expenses are paid. (Tr. 63; GE 3 at 11) His credit cards are current. (Tr. 66) He also paid off his truck. (Tr. 66) Applicant

said he would provide a new credit report after his hearing; however, he did not provide it. (Tr. 101) I also suggested he provide additional information regarding the debts in SOR ¶¶ 1.g and 1.h; however, no post-hearing documentation was received. (Tr. 102)

On his March 31, 2023 SCA, Applicant disclosed his loan for his 2018 truck as his only delinquent debt in the previous seven years, and he said this debt was resolved. (GE 1 at 32) In response to the SCA questions about delinquent debts, he did not disclose any of the SOR debts. (GE 1 at 33) In his OPM interview, he did not disclose any delinquent debts, and after he was confronted with the SOR debts, he admitted his responsibility for most of the accounts. (GE 2 at 8) At his hearing, he said he did not disclose his delinquent SOR debts because he was unsure of their status or did not know they were delinquent. (Tr. 67-68)

### **Alcohol Consumption**

SOR ¶ 2.a alleges in about May 2006, Applicant was arrested and charged with driving under the influence of alcohol (DUI). He said he drank 10 to 12 beers at a bar before he drove. (Tr. 69) He was 20 years old at the time of the arrest. (Tr. 68) The police report indicates that after the police officer activated his siren and lights, Applicant accelerated away from the police officer's vehicle. (GE 8 at 3) His blood alcohol content (BAC) was .157 percent. (Tr. 71-72; GE 8 at 3) He was placed into an accelerated rehabilitation disposition (ARD) program; his driver's license was suspended for 30 days; he was ordered to attend substance abuse classes, and he paid costs and fees. (Tr. 68, 73; GE 2 at 6) ARD included alcohol-related classes every Saturday for six weeks. (Tr. 73) After he completed ARD, the DUI charge was dismissed. (Tr. 74)

SOR ¶ 2.b alleges in about May 2010, Applicant was arrested and charged with permitting DUI. Applicant drank 6 to 10 beers at a bar, and then he called his girlfriend for a ride. (Tr. 76) He did not realize she had been drinking. (Tr. 77-78) His girlfriend was arrested for DUI. (Tr. 78) The case against Applicant was dismissed. (Tr. 79)

SOR ¶ 2.c alleges in about June 2013, Applicant was arrested and charged with DUI. He pleaded no contest to the DUI charge, was sentenced to 60 days in jail (suspended) and assessed costs and fees. (Tr. 81, 84) Applicant drank 10 to 15 beers and two shots at a bar. (Tr. 82) He drove because he believed he was okay to drive. (Tr. 82) The police report indicates his BAC was .173 percent. (Tr. 83; GE 8 at 6) He said this was the first time that he drank and drove since the 2006 DUI arrest. (Tr. 82) He completed a three-day class on alcohol abuse, which was part of his sentence. (Tr. 85) He also received an alcohol interlock device on his vehicle for seven months. (Tr. 86) After 2013, he did not go to the same bar. (Tr. 86) He reduced the magnitude of his alcohol consumption. (Tr. 87)

SOR ¶ 2.d alleges in about December 2018, Applicant was arrested and charged with DUI. (Tr. 87) He said the only time he drank alcohol and drove from 2013 to 2018 was when he was arrested for the December 2018 DUI. (Tr. 86) The police report indicates that after a police officer started following him, he pulled off of the highway and drove into a private driveway. (Tr. 88; GE 8 at 9) He denied that was aware the police

officer was behind him and that he was trying to evade the police officer. (Tr. 88) He said he “was on his phone with his girlfriend at the time, and [he] was trying to find somewhere to park his truck to get picked up.” (Tr. 88) He said he did not notice the police officer until the police officer turned on his lights, and by that time he was already parked. (Tr. 89) His BAC was .174 percent. (Tr. 89; GE 8 at 3) He pleaded guilty to DUI, was sentenced to 60 days in home confinement with work release and assessed costs and fines. (Tr. 87, 90) He had an ankle device while he was on house arrest and an alcohol interlock device on his vehicle. (Tr. 90) He was required to attend a three-day alcohol abuse program. (Tr. 91)

Applicant disclosed his 2018 DUI arrest and his 2019 DUI conviction on his March 31, 2023 SCA. (GE 1 at 27) In response to the SCA question, “Have you **EVER** been charged with an offense involving alcohol or drugs?”, Applicant did not disclose his other alcohol-related offenses or charges. (GE 1 at 28 (emphasis in original)) During his OPM interview, he said he did not disclose his other alcohol-related offenses on his SCA because he thought they needed to be within seven years of completion of the SCA. (GE 2 at 5)

Applicant said his DUI arrest in 2018 was the first time he had driven drunk since 2013. (Tr. 92) Currently, he does not drive if he has more than three beers. (Tr. 94) His current level of alcohol consumption is 6 to 10 beers, two or three times a week, which is a reduction from the 10 to 15 beers he previously consumed on a weekend. (Tr. 94) He lives with a person who wrecked his truck when he was drinking and driving. (Tr. 94-95) He does not drive drunk anymore. (Tr. 96) He does not consider consumption of 6 to 10 beers three times a week to be excessive alcohol consumption. (Tr. 97) He has not consumed more than 10 beers at a single sitting in the previous two years. (Tr. 99)

A court has never ordered Applicant to reduce or end his alcohol consumption. (Tr. 97) Records from the courts indicating whether he was ordered not to consume alcohol are not part of the record. He said after 2018, he did not drive after drinking; however, he might drive after drinking a beer. (Tr. 97-98) He has never attended an alcohol treatment program or an Alcoholics Anonymous meeting. (Tr. 99)

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

## Analysis

### Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes three disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts"; and "(c) a history of not meeting financial obligations."

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c). Additional inquiry about the possible applicability of mitigating conditions is required. Discussion of the disqualifying conditions are contained in the mitigation section, *infra*.

The financial considerations mitigating conditions under AG ¶ 20, which may be applicable in this case are as follows:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

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

Applicant provided some important mitigating information. Two conditions contributed to his financial problems, which were largely beyond his control. He was injured at work, and he had several periods of unemployment. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)). Applicant acted responsibly under the circumstances by paying or settling 7 of 10 SOR debts.

Three SOR debts are unresolved. SOR ¶¶ 1.g and 1.h are bank debts placed for collection for \$2,183 and \$1,150. He contacted the creditors several times; however, the



creditors did not provide information about the debt. He said he would pay the two debts if the creditors provided information about the debt. SOR ¶ 1.i is a debt placed for collection for \$511. Applicant said he believed the debt was paid in May of 2024; however, he did not provide a receipt or other documentation showing the debt was paid. Because of his handling of his other debts and overall handling of his finances, he is credited with mitigating these three debts.

A security clearance adjudication is not a debt-collection procedure. It is designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). Applicants are not required "to be debt-free in order to qualify for a security clearance. Rather, all that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017) (denial of security clearance remanded) (citing ISCR Case No.13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014)). There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant generated a budget or personal financial statement. He has an established history of paying his debts. He has taken meaningful actions to address his debts. His credit report indicates he has several debts in paid or paid as agreed status, and he has an established track record of paying several debts. His history of making payments increases the confidence that he will maintain his financial responsibility.

Applicant has demonstrated a good-faith effort to resolve his debts. There are clear indications that his financial problems are being resolved and under control. His finances do not cast doubt on his current reliability, trustworthiness, and judgment. AG ¶¶ 20(a) through 20(d) are established. Financial considerations security concerns are mitigated.

### **Alcohol Consumption**

AG ¶ 21 articulates the Government's concern about alcohol consumption, "Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness."

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

- (a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder;
- and

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

AG ¶ 22(a) and 22(c) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*.

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

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

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

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

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

In about May 2006, Applicant was 20 years old. He was arrested and charged with DUI. He drank 10 to 12 beers at a bar before he drove. His BAC) was .157 percent. After he completed ARD, the DUI charge was dismissed.

In about May 2010, Applicant was arrested and charged with permitting DUI. Applicant drank 6 to 10 beers at a bar, and then he called his girlfriend for a ride. He said he did not realize she had been drinking. His girlfriend was arrested for DUI. The case against Applicant was dismissed.

In about June 2013, Applicant was arrested and charged with DUI. He pleaded no contest to DUI. He said he drank 10 to 15 beers and drank two shots at a bar. He drove because he believed he was okay to drive. His BAC was .173 percent. He claimed this was the first time that he drank and drove since the 2006 DUI arrest. He completed a three-day class on alcohol abuse, which was part of his sentence. He said he reduced the magnitude of his alcohol consumption after 2013.

In about December 2018, Applicant was arrested and charged with DUI. He said the only time he drank alcohol and drove from 2013 to 2018 was when he was arrested for the December 2018 DUI. He accelerated away from the police officer, and he pulled

into a driveway. He denied that he was aware the police officer was behind him, and he denied that he was trying to evade the police officer. He claimed he did not notice the police officer until he turned on his lights, and by that time he was already parked. His BAC was .174 percent. He pleaded guilty to DUI. He was required to attend a three-day alcohol abuse program.

Applicant did not disclose any of his delinquent SOR debts or his alcohol-related arrests in 2006, 2010, and 2013 on his March 31, 2023 SCA. His failure to disclose information on his SCA was not alleged in the SOR. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility;
- (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances;
- (c) to consider whether an applicant has demonstrated successful rehabilitation;
- (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or
- (e) to provide evidence for whole person analysis under Directive Section 6.3.

*Id.* (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). These non-SOR allegations (false answers on his SCA) will not be considered except for the five purposes listed above.

Applicant claimed that the only times he drove drunk from 2006 to present resulted in DUI arrests in 2013 and 2018. He said that currently he does not drive if he has more than two or three beers. His current level of alcohol consumption is 6 to 10 beers, two or three times a week, which is a reduction from the 10 to 15 beers he previously consumed on a weekend. He does not consider consumption of 6 to 10 beers, two or three times a week to be excessive alcohol consumption.

None of the mitigating conditions fully apply. Applicant's current level of alcohol consumption is excessive in light of his three DUI arrests with relatively high BACs. He specifically said he believed he was safe to drive even though his BAC was over .15. His excessive alcohol consumption may result in "the exercise of questionable judgment or the failure to control impulses." See AG ¶ 21. His level of alcohol consumption raises questions about his reliability and trustworthiness. I have lingering concerns about his ability to protect classified information. Alcohol consumption 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 common-sense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guidelines F and G 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 39-year-old vehicle mechanic. In 2013, he received a diploma in welding. He has an associate degree in automotive. He has worked for his current employer for two years.

The evidence against grant of a security clearance is detailed in the alcohol consumption analysis section, *supra*, and this evidence is more substantial than the evidence of mitigation. Applicant did not establish that he was consuming alcohol at a reasonable and responsible level. His history of alcohol consumption and current alcohol consumption raise unmitigated questions about his reliability, trustworthiness, and ability to protect classified information.

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. Applicant mitigated financial considerations security concerns; however, he failed to mitigate alcohol consumption security concerns.

### **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 F: FOR APPLICANT

Subparagraphs 1.a through 1.j: For Applicant

Paragraph 2, Guideline G:

AGAINST APPLICANT

Subparagraphs 2.a through 2.d:

Against Applicant

**Conclusion**

I conclude that it is not clearly consistent with the interests of national security of the United States to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

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Mark Harvey  
Administrative Judge