



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



In the matter of:)
)
) ISCR Case No. 22-00468
)
Applicant for Security Clearance)

Appearances

For Government: Tara Karoian, Esq., Department Counsel
For Applicant: Carl Marrone, Esq.

03/14/2025

Decision

TUIDER, Robert, Administrative Judge:

Applicant mitigated security concerns regarding Guidelines G (alcohol consumption) and I (psychological conditions). Clearance is granted.

Statement of the Case

On April 3, 2018, Applicant submitted an Electronic Questionnaire for National Security Positions (SF-86). On April 28, 2022, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines G and I. (The DOD CAF was renamed the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) on June 13, 2022. The name change had no impact on the procedural history of this case.) The SOR detailed reasons why the DCSA was unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On September 9, 2022, Applicant submitted his Answer to the SOR through counsel.

On November 16, 2022, Department Counsel was ready to proceed. On November 18, 2022, the Defense Office of Hearings (DOHA) assigned the case to me.

On January 11, 2023, DOHA issued a Notice of Microsoft Teams Video Teleconference Hearing scheduling the hearing for March 9, 2023. The hearing was convened as scheduled. Department Counsel submitted Government Exhibits (GE) 1 through 5, which were admitted without objection. Applicant testified, called two witnesses, and submitted Applicant Exhibits (AE) A through R, which were admitted without objection.

I held the record open until March 29, 2024, to afford the Applicant an opportunity to submit additional evidence. Applicant timely submitted AE S and T, which were received and admitted without objection. AE T(1) is a June 20, 2023 email from Department Counsel in which she added her concerns about mitigating conditions not addressed in AE T. (AE T(2) is Applicant's counsel's June 19, 2023 forwarding email. AE T is a Psychological Evaluation dated June 14, 2023 submitted by Applicant's counsel. AE U is a July 25, 2023 letter from Applicant's psychologist advising that Applicant committed to continue therapy for one year and that such therapy began on July 19, 2023.

On March 11, 2024, I emailed both counsel and offered to reopen the record to afford the Applicant an additional opportunity to submit an updated psychological evaluation. Applicant through counsel timely submitted such an evaluation, AE V(3). AE V(1) is the March 11, 2024 email I sent to both counsel. AE V(3) is an updated Psychological Evaluation dated March 21, 2024 submitted by Applicant's counsel. AE V(2) is Department Counsel's objection to AE V(3) on the grounds that it contained mitigation after the issuance of the SOR. I overruled Department Counsel's objection. On March 17, 2023, DOHA received the hearing transcript (Tr.).

Findings of Fact

Background Information

Applicant is a 49-year-old cloud solution architect engineer employed by a defense contractor since March 2021. He seeks to retain his Top Secret/Sensitive Compartmented Information (TS/SCI) clearance required "[t]o support certain customers." (Tr. 17-21; GE 1) Applicant has successfully held clearances at the Secret and TS/SCI levels since he enlisted in the Air Force in 1996 and post-Air Force as a civil servant or a defense contractor. (Tr. 17-21, 29-30; GE 1)

Applicant graduated from high school in May 1994. He was awarded a Bachelor of Science Degree in Management of Computer Information Systems in December 2013. (Tr. 21-22; GE 1) Applicant served in the U.S. Air Force from May 1996 to May 2000 and was honorably discharged a senior airman (pay grade E-4). He then served in his state Air National Guard (ANG) in the Inactive Reserve from May 2005 to May 2011 and was honorably discharged as a technical sergeant (pay grade E-6). (SOR Answer; Tr. 22-24, 32-35-38; GE 1) Applicant served overseas in Saudi Arabia for a 180-day non-combat tour from 1999 to 2000 and later in Afghanistan in a forward operating base outside of Kandahar for a 180-day combat tour from 2006 to 2007. He is receiving a 50% Veterans Affairs (VA) disability rating for combat-related post-traumatic stress disorder (PTSD), discussed *infra*. (Tr. 24-25, 30-32)

Applicant was married to his first wife from February 1998 to March 2006, and that marriage ended by divorce. He married his second and current wife in November 2008. He has two adult daughters from his first marriage, and three minor children and one adult stepdaughter with his second wife. The adult stepdaughter is attending college. Applicant is financially responsible for all six children. All six children live with Applicant and his wife except for his stepdaughter when she is away at college. (Tr. 25-28, 34-35; GE 1) Applicant's wife is a master sergeant (pay grade E-7) in the state ANG in the Active Reserve. (Tr. 28-29)

Alcohol Consumption/Psychological Conditions

Six allegations were cited under the Alcohol Consumption concern and five allegations were cited under Psychological Conditions. The two concerns overlap at times and are summarized below. Applicant's SOR answers are also included.

1.a – Applicant consumed alcohol, at times in excess and to the point of intoxication since about 2007 to present. SOR Answer – Applicant denied this to the extent he is currently substance free. He does readily admit that he has consumed alcohol in excess and to the point of intoxication in the past.

1.b – Applicant received treatment for Alcohol Abuse, Uncomplicated, at a military treatment facility (MTF), on multiple occasions from about October 2016 to about August 2019. SOR Answer – Applicant denied this to the extent that he was never informed of any alcohol abuse related diagnosis. He sought treatment with Dr. VER purportedly for his PTSD and anxiety. While the medical records reflect an alcohol abuse disorder diagnosis, this was not [Applicant's] understanding at the time.

1.c – Applicant was diagnosed with Alcohol Dependence, Uncomplicated, at an MTF, in about November 2016. SOR Answer – Applicant denies this to the extent that he was never informed of any alcohol abuse related diagnosis. He sought treatment with Dr. VER purportedly for his PTSD and anxiety. While the medical records reflect an alcohol abuse disorder diagnosis, this was not [Applicant's] understanding at the time.

1.d – Applicant was hospitalized at an MTF, in approximately November 2017, for suicidal ideation in context of alcohol intoxication and familiar stressors. He was diagnosed with Alcohol Use Disorder, Severe; Substance Induced Depressive Disorder; and PTSD by history. SOR Answer – Applicant admits this concern and notes that this was a turning point in his life leading him to acknowledge the impact of self-medication and physical pain, PTSD anxiety, and insomnia were having on his relationships with friends and family. After this event Applicant began to address these issues and the resultant alcohol misuse.

1.e – Applicant was diagnosed with Alcohol Use Disorder, Mild, following his evaluation by a licensed psychologist in approximately September 2020. The evaluator opined that given his level and frequency of alcohol consumption in and of itself, his judgment appears impaired. During circumstances of altered consciousness due to

excessive consumption, his judgment is most likely impaired as is his reliability and trustworthiness. Assuming he has full use of his mental faculties when not consuming alcohol, his judgment may be intact. At best, due to his pattern of regular alcohol abuse, his stability, reliability, and trustworthiness are questionable. Further, he does not appear to recognize that he has a problem with alcohol consumption, and he has not been receptive to abstinence or treatment. SOR Answer – Applicant denied this concern to the extent that an opinion from 24 months ago has no relevancy on Applicant’s current mental health diagnosis or his current reliability or trustworthiness.

1.f Applicant continues to consume alcohol, notwithstanding his treatment for conditions diagnosed as Alcohol Abuse, Uncomplicated; Alcohol Dependence, Uncomplicated; Alcohol Abuse Disorder, Severe; as set forth in subparagraphs 1.b, 1.c, and 1.d above. SOR Answer – Applicant denied this. He is currently substance free with a positive prognosis.

2.a – This allegation cross-alleged the information set forth in subparagraph 1.d, above. SOR Answer – Applicant admitted this concern and notes that this was a turning point in his life leading him to acknowledge the impact his self-medication of physical pain, PTSD, anxiety, and insomnia were having on his friends and family. After this event Applicant began to address these issues and the resultant alcohol misuse.

2.b – This allegation cross-alleged the information set forth in subparagraph 1.e, above. SOR Answer – Applicant denied this concern to the extent that an opinion from 24 months ago has no relevancy on Applicant’s current mental health diagnoses or his current reliability or trustworthiness.

2.c – Applicant received mental health treatment for PTSD from about October 2016 to about March 2017 at an MTF. SOR Answer – Applicant admits voluntarily seeking and receiving successful treatment for PTSD related to being thrown by a mortar explosion while deployed to Afghanistan in 2007.

2.d – Applicant’s medical record reflects that he was prescribed Fluoxetine (Prozac) as an antidepressant, Trazadone to treat his depression and anxiety, and Gabapentin. Applicant was seen for a total of approximately ten outpatient sessions at an MTF between about 2016 and 2018, but he has not had any contact with a mental health professional since approximately January 2018, and he has not had any subsequent prescriptions for psychotropic medication. SOR Answer – Applicant denied this concern to the extent that he is currently treating with a mental health professional.

2.e – Applicant was evaluated by a licensed psychologist in about September 2020. The evaluator opined that he presented with an emotional and substance abuse condition that could impose a significant risk to his judgment, reliability, and trustworthiness concerning classified information at the present time. Based upon all the information currently available to the present examiner combined with the several year history of his present conditions and resistance to treatment of his prognosis to overcome his alcohol use, anxiety, and PTSD appears poor. Appropriate psychological treatment may help him to successfully address his psychological conditions, but he is

currently not engaged in appropriate treatment nor he has not shown a willingness to do so. SOR Answer – Applicant denied this. He is currently substance free with a positive prognosis.

These allegations are established by Applicant's April 3, 2018 SF-86, his September 30, 2020 Psychological Evaluation, his medical records from various providers created on September 20, 2019, his medical records from various providers last stored on November 20, 2017, his July 11, 2019 Office of Personnel Management Personal Subject Interview, and in part, by his September 9, 2020 SOR Answer. (SOR Answer; GE 1-5)

Applicant elaborated on his military service during his testimony and discussed his family history of military service, his active-duty tour in the Air Force, and his service in the ANG. As discussed above, he made two deployments with the ANG. During his second tour in Afghanistan while serving on a Forward Operating Base, his base was under siege "and you could hear the rockets impact the surrounding area, so we got down and that became the norm for the next 180 plus days." Applicant described near death experiences particularly in November 2006 that affected him to the point that his commander noticed a change in his behavior. She commented that he "(didn't) seem the same," "was staring off," "seem(ed) more agitated," and had "changed." (Tr. 32-45)

About a month after Applicant returned home from deployment, he started drinking. He did not report any PTSD symptoms such as being "(un)able to sleep," "every little noise would wake (him) up," if he saw "a pile of trash on the side of the road, (he) would clench up, waiting for it to explode," "(he) didn't like being around people," "[e]verywhere [he] went, [he] always had to be watching a door, and constantly looking at people." (Tr. 45-46) Applicant's behavior eventually led to conflicts with his wife in the 2016 to 2017 timeframe. She told him to either seek professional help or their marriage would end. He went to the VA to get help. (Tr. 47, 50)

Applicant stated that in the 2016 to 2017 timeframe his drinking increased. In addition to his PTSD symptoms, he started drinking "because [he] was having really bad neck pains and back pains." He stated that if he drank to the point of intoxication, it was on rare occasions. He defined intoxication as "slurred speech . . . blurred vision or impaired vision, impaired muscle movements, things like that." He did not drive if he was impaired. (Tr. 47-50, 100)

When Applicant presented himself to the VA, he advised them that he thought he was suffering from PTSD. He stated the VA informed him that he was not eligible for treatment because he was a contractor and no longer qualified as a veteran. He either received incorrect information or heard it incorrectly. In any event, his wife "put (him) on her TRICARE so [he] could go to an [MTF] and talk to the Army specialist there, the mental health specialist at the [MTF]." (Tr. 50-52) This led to the diagnoses and/or allegations discussed in SOR ¶¶ 1.b, 1.c, 1.d, 2.a, 2.b, 2.c, and 2.d (Tr. 52; AE Q, AE R)

When Applicant went to the MTF, he was asked about his alcohol consumption and provided the information requested. He does not recall "it being talked about that

[he] abused it.” He was drinking alcohol to cope with his pain. He did not view his alcohol consumption at the time as abusive but does recognize it as abusive now. He stated he had a few drinks every night to relax, but never drank to the point of blacking out. (Tr. 53-54,105-106, 111-114)

Dr. RVK at the MTF tried several medications that did not prove helpful for Applicant. He asked her if he could stop taking medication. She agreed and recommended stellate ganglion block (SGB) that Applicant described as inserting “a needle into your neck towards your spinal cord, and they inject something like Novocain, and the effects they hope for is it resets your brain to (where it was) before the traumatic event.” Applicant participated in three SGB procedures in 2016. Dr. RVK transferred from the MTF in 2016 and he was assigned a new doctor in 2017. He did not continue seeing his new doctor and “everything kind of subsided.” (Tr. 54-58,100-105) Applicant’s back and neck pain remained severe waking him up at night. Occasionally the pain was so severe he could not walk, requiring him to use a cane to remain mobile. The neck pain led to very severe headaches. In order to cope with the pain and PTSD, he self-medicated with alcohol. That behavior continued until November 2017. (Tr. 59, 104-107)

In November 2017, Applicant had some friends over at his house during Thanksgiving weekend. Everyone was drinking and “hanging out.” Applicant had consumed “three to six drinks throughout the day” and he had also gotten into an argument with his wife. Later in the day, he was experiencing severe lower back and neck pain and decided to go upstairs and tried to fall asleep. One of his friends, who was a member of the Air Force security police, came upstairs to check on him. Applicant told him he could not live with the pain anymore. His friend told Applicant that he needed to go to the emergency room and that if he would not go on his own, his friend would take him. (Tr. 59-62)

Applicant self-admitted himself at the MTF over the Thanksgiving weekend in 2017. His visit to the MTF resulted in him being hospitalized for suicidal ideation in context of alcohol intoxication and familial stressors, and he was diagnosed as described in SOR ¶ 1.d. Applicant stated that he had the unpleasant experience of finding a coworker and family members after they committed suicide. He added that committing suicide was out of the question “because he could never put [his] family through that or go through with it.” (Tr. 62-64, 114-120; GE 4)

Applicant described his stay at the MTF:

Upon arriving in [ward location], which was a psych ward, it was an eye-opener that I didn’t belong there. I can change my life. This is not for me. This is not how I wanted my family to perceive me or anybody else perceive me. I didn’t need to be there. I just self-admitted because that’s what was advised to me. There was [sic] other individuals in there that were way scarier that – you know, so I spent 72 hours just contemplating my life and changes I needed to make, and I’m sure my records will show that I was very compliant, and I did everything I was told while I was there. Upon leaving there, I met with a doctor’s board to be released. They – the

viewing of my records, they recommended the alcohol abuse. They also recommended that I continue, you know, to work on my PTSD and whatnot. So I left there. I didn't want to go back to [name of doctor – who replaced Dr. RVK], and that's who I was going to have. So I turned to my family. I – after being there, I sat down with my family, and I told them the things I experienced in [ward location], the things I had experienced all the way from Afghanistan to the day I was talking to them, and I told them, I was like, you know, I know I'm not the easiest person to live with. I know I have anger. I yell. I – whatnot. I can't sleep, things like that, and just talking to them was – I guess kind of like an intervention, where they just – consoled me, and, you know, it kind of started my road to helping myself with my PTSD by talking about it. (Tr. 64-65; AE Q, AE R)

Applicant discussed the impact his visit to the psychiatric ward had on himself and his family. (Tr. 65-67) Despite receiving the diagnosis as discussed in SOR ¶ 1.d, Applicant continued to drink after his release from the MTF in November 2017. His explanation for continuing to drink was, "I was, again, was drinking to relax from my neck and back pain." He explained that he "wasn't drinking as much or as often, but it was a relaxing mechanism for [him]." Applicant recognizes now that his drinking after 2017 was abusive. (Tr. 67-68, 108-113) After he was released from the psychiatric ward in 2017, Applicant continued to drink and abuse alcohol for two to three years. (Tr. 69, 114-121)

In 2020, Applicant's security clearance came up for renewal. In the course of his background investigation, the DOD CAF referred him for a psychological evaluation to clarify his current mental health status. In particular, he was referred for evaluation by the CAF because of reported suicidal behavior, PTSD, and possible history of alcohol abuse discovered during a background investigation. The evaluation was conducted to answer the following question as it pertains to a security clearance determination: "*Does the subject have any medical, psychological, psychiatric, emotional, or substance use condition which could impair his judgment, reliability of trustworthiness?*" (GE 2)

When Applicant presented himself to the CAF-referred psychologist (Dr. HMG), he received the diagnoses and prognoses discussed in SOR ¶¶ 1.e and 2.e, *supra*. See Dr. HMG's Summary of Psychological Evaluation, DATE OF EVALUATION: September 30, 2020; DATE OF REPORT October 3, 2020. (Tr. 68, 99; GE 2)

Applicant's visit with Dr. HMG was a wake-up call. When asked why Applicant thought his drinking was abusive after 2017, he stated:

Because of when I met with [Dr. HMG], you know, after what he said, that I am unreliable and in the government's eyes and whatnot, I started to think, is my drinking that excessive? Is it still abusive? And, you know, I had coming to God, I'd say, and goes, maybe it is. Maybe you do have a problem. So that's when I decided to stop drinking. And it was a gradual process. I'm not going to lie. I didn't wake up and go, Okay, I'm done drinking. It was a gradual process. And eventually I got to where I didn't

need alcohol. I started seeking doctors for my back and neck pain and that took a while because I would see doctors that made the pain worse, or doctors that just wanted to try something to see if it would work. And eventually, I found a chiropractor that could relieve my pain and it coincide with, you know, me working on not drinking. And that just went from there to where I didn't consume alcohol for pain anymore. (Tr. 68-69)

When asked what Applicant felt when Dr. HMG informed him that he was not going to write a favorable report, Applicant answered:

I thought my career was done, my clearance was over. Basically, without my clearance at that time, I wouldn't have had a job. And I – and this was when COVID was starting up, so I was like, well, where am I going to get a job? I'm going to fail my family because I can't make an income because I don't have my clearance anymore. (Tr. 70)

After Dr. HMG informed Applicant that he would not receive a favorable report, Applicant made immediate life changes. He got rid of all the alcohol in his house by throwing it away. He stopped drinking stating, "So I took it upon myself to gradually stop. And I got to that point where I didn't want alcohol, didn't need alcohol, it was great." This process went from not drinking during the week, and having "maybe three (drinks)" over a six to seven hour period on the weekend, to not drinking at all unless it was a special occasion. (Tr. 70-73) Applicant does have alcohol in his house, but it is for his wife or for their friends to consume. The last drink that Applicant had was one glass of champagne in December 2022 on his wife's birthday. Quitting drinking was not a difficult process for Applicant. (Tr. 73-74, 107) Applicant does not believe that he is an alcoholic. He stated, "I don't need alcohol." He has never had any law enforcement issues pertaining to alcohol. (Tr. 74-75, 106-112)

Applicant stated his PTSD is not going to be a problem:

Because I have the support system around me now. I have my family, my friends who are all (aware) of my condition. I have the Wounded Warrior Project that I can refer to. I have my friends that suffer from PTSD as well. It's being able to talk about it and not be ashamed has made my treatment with PTSD way better. (Tr. 75)

Applicant has been proactive in seeking professional help as well as support from his family. He submitted a letter dated August 2, 2022, from a licensed therapist (Ms. LU) who stated that he had completed a mental health assessment as well as a substance abuse assessment on June 22, 2022. He began seeing her after his session with Dr. HMG. The therapist stated, "[Applicant] has no issues with substances or alcohol . . . and I do not see any issues with his PTSD symptoms interfering with his employment at this time." Applicant stated during his testimony that she is available "on as as-needed basis." He saw her from August 2022 to November 2022 "at least 12 times." Applicant would reach out to Ms. LU if he needed her stating, "I could text her right now and she would respond." (Tr. 76-77, 90-94, 99, 121-125; AE F) Applicant

described the help with regard to PTSD he has sought and received from the Wounded Warriors Project and online resources to deal with his PTSD. (Tr. 94-99)

Applicant stated alcohol will not be a concern in the future because:

Once I realized I was abusing alcohol and what it could do to my livelihood and my family, I realized I didn't need that problem in my life. I didn't need alcohol to get by to, you know, have a good life. So I cut it out and I honestly believe I do not need alcohol to go day to day, week to week, month to month, year to year. I didn't realize that if I was in pain, you know, find that doctor that will fix the pain. I was giving up on, okay, one doctor couldn't fix it, two doctors couldn't fix it, instead of keep looking. And now that I do that, I know the process to where if I'm having pain or I'm having an issue, I go see a doctor and I find that doctor and luckily I have great doctors now. And I just, I don't feel like I need alcohol like I did. Like I needed it to relax and I honestly don't believe that I will ever need it again. (Tr. 77-78)

In Applicant's SOR Answer, he submitted a signed pledge dated August 18, 2022, to abstain from all drug involvement and substance misuse. (Tr. 78; AE D) His intent when he signed that pledge:

When I signed that pledge, I – my understanding of it was I would not abuse alcohol ever again. I would not use drugs, I would not – yeah, abuse alcohol. So I signed that pledge because I knew I wasn't going to abuse alcohol. Then that after 27 – or that night having that glass of champagne, you know, I was like, did I just abuse alcohol? (Tr. 78)

My intent was to celebrate my wife's 40th birthday with a single glass of champagne. And that's all I had. I felt bad for having it, but I do not feel like I abused it that night. (Tr. 79) (Applicant's intent is) [t]o avoid it all costs. I don't need it. I honestly don't. (Tr. 79)

Applicant's statement to the court:

Your honor, first of all, I'd love to thank you for your time. I know this is taking a chunk of your day out and I honestly do understand I abused alcohol and I made poor decisions in the past. But I assure you I am doing everything in my power with the help of my friends, family, my mental health professional, the network I have around me, to not make those choices again, ever again. I honestly feel that my PTSD is in the best place that it's ever been. And I can -- I can see it getting even better. My alcohol abuse has stopped. I do not rely on alcohol for pain, for anything. I don't need it, okay? I used to think that I needed it to hang out with people. I don't. I really don't. And to Defense Counsel [sic], again, I appreciate your time. I know these things are tough and I didn't realize what I was doing in the past. I really didn't. And my clearance and my career and my

family is everything I have. And I truly want to thank you-all for taking this into consideration of allowing me to keep my clearance. And I promise you everything I've said, I mean it. I don't need alcohol and I'm in a very, very good place. (Tr. 79)

Applicant submitted a drug screen analysis test. His test specimen was collected on August 22, 2022, and the results were released on August 25, 2022, which were negative. (AE E) Post-hearing, Applicant's counsel submitted a Phosphatidylethanol (Peth) test, which is a highly specific and sensitive modern alcohol testing method for proof of consumption within the previous four weeks. Applicant's test specimen was collected on February 6, 2023, and the results were released on February 16, 2023, which were negative. (AE S)

Post-hearing, Applicant's counsel also submitted a comprehensive Psychological Evaluation dated June 4, 2023, accompanied by a curriculum vitae (CV). (AE T, AE U) The psychiatrist (Dr. MC) stated the following:

Diagnosis/Prognosis:

Based on current background information, clinical interview and observations, and objective personality, clinical, and substance abuse assessment, [Applicant] does not currently meet criteria for any mental health disorder. Given his current state and his level of psycho-social support his prognosis for a continued mental health status is very good.

Conclusions:

[Applicant] acknowledges and his medical records support that he previously suffered from PTSD and Alcohol Abuse Disorder. It does not appear that [Applicant] was or is susceptible to impulsive behavior or violence. However, his records indicate that he was susceptible to responding to stress with thoughts of violence to himself. [Applicant] does not appear to currently be at risk of harm to self or others. In addition, [Applicant] does not appear to be engaging in any behavior that puts him at risk of blackmail.

At this time, all testing and collateral data, indicate that [Applicant] no longer meets criteria for any mental health disorder. Other than an unsubstantiated reference in his medical record from 2017 there is no evidence that [Applicant] ever met criteria for Alcohol Dependence, which would be consistent with his reported lack of withdrawal symptoms once he decided to stop drinking. By his report and the medical testing there is no reason to believe he is currently abusing alcohol.

Although [Applicant] denied that his PTSD of alcohol abuse ever negatively affected his job performance this seems unlikely. During the period when he was drinking [Applicant's] mental status most likely

impaired his judgment. However, whatever affect it had does not appear to have led to any negative evaluations prior to his hospitalization in 2017, and there are no records I am aware of indicating that his work performance has been inadequate or problematic since he returned to work. Assuming he has full use of his mental faculties when not consuming alcohol, [Applicant's] judgment appears intact and adequate. And there is no evidence that he is currently consuming alcohol.

One area of concern is that [Applicant] seems somewhat defensive and resistant to further psychological treatment. Part of this likely stems from his well-deserved pride in being able to stop drinking on his own. However, part of this resistance is likely a function of his limited understanding of how his history continued to impact his present behavior. This limited insight likely played a big role in his previous mental health problems. While he is currently functioning within normal limits, and there is no indication that he is at imminent risk of dysfunctional behavior, or poor judgment, life is likely to produce significant stressors and challenges in the future, and [Applicant] would be well served by developing a wider range of coping skills and a deeper understanding of his normal human frailties, and common paths from well-being to psychopathology. [Applicant's] extensive trauma history is not currently impairing him, however, trauma leaves a person with vulnerabilities and strengths that persons without similar trauma history do not have. A better understanding of these dynamics, including the relationship between Post-traumatic Stress Disorder (PTSD) and Post-Traumatic Growth (PTG) would ensure that [Applicant] has an ever lower risk of future problems than he currently does.

In the opinion of this examiner, [Applicant] does not present with an emotional or substance use condition at this time that is likely to pose a significant risk to his judgment, reliability and trustworthiness concerning classified information. Based upon all information currently available to the present examiner, including his history of holding a security clearance [Applicant] is likely a far lower risk than he has been at any time in the past. However, this examiner recommends that [Applicant] commit to a one year of psychotherapy that focuses on giving him a better understanding of the dynamics of trauma and substance abuse, and how they can become exaggerated under increased stress so that he is better prepared to handle any future extreme acute or chronic stress situations in a manner that facilitates growth, adaptiveness, and flexibility, rather than avoidance, reactivity, and rigidity. (AE T)

In her June 20, 2023 email, Department Counsel did not object to the inclusion of this Evaluation, but expressed concern regarding the comment by Dr. MC about Applicant's willingness to commit to further psychotherapy, etc. Department Counsel also noted that she would not oppose keeping the record open for a reasonable time to

provide Applicant an opportunity to submit additional information regarding his position on receiving recommended further psychological treatment. (AE T(1)).

On July 31, 2023, Applicant's counsel submitted a July 25, 2023 letter from Dr. MC that stated Applicant began therapy on July 19, 2023, and agreed to continue such therapy for one year. The focus of therapy was to further improve Applicant's capacity to handle any further extreme acute or chronic stress situations in a manner that facilitates growth, adaptiveness, and flexibility, rather than avoidance, reactivity, and rigidity. (AE U)

On March 11, 2024, I emailed both counsel inquiring whether Applicant's counsel wished to submit any updates on Applicant's treatment progress. On March 24, 2024, Applicant's counsel submitted a letter from Dr. MC that described the progress that Applicant had made since beginning treatment. (AE V(3)) Pertinent portions of Dr. MC's Post Evaluation Report follow:

I saw [Applicant] as my patient for treatment 27 times between July 12, 2023, and February 13, 2024. The focus of therapy was to improve [Applicant's] capacity to handle any future extreme acute or chronic stress situations in a manner that facilitates growth, adaptiveness, flexibility, rather than avoidance, reactivity, and rigidity.

In February 2024 [Applicant] asked to discontinue therapy so that he could switch to a therapist that was located closer to his home and work. Although [Applicant] only attended therapy with me for 7 months rather than the 12 months I had recommended in my initial evaluation, it was my opinion that [Applicant] had made excellent progress on all his therapy goals so I saw no reason to disagree.

[Applicant] returned for a check-up appointment on March 20, 2024. By his report he had not had a drink, his relationships with his wife and children continued to improve, and he has experienced no symptoms of PTSD, and his chronic anger had not returned. He presented with positive affect and conveyed a sense of purpose and meaning in his life. [Applicant's] therapy goals were: 1) Be more comfortable in crowds, 2) Be less physiological to stress, 3) Decrease procrastination and excuse making, 4) Exercise more, 5) Spend more structured and unstructured time with family, 6) Improve sleep, 7) Yell less, 8) Increase productivity, 9) Decrease time playing video games. He reports that he succeeded on all his goals, but continues to set new goals and higher standards.

(Dr. MC gave an example of improvements Applicant made.) Another example of his increased stress coping capacity is how he is responding to his diagnosis of Stage 3 Asymptomatic Leukemia. He reported that he and his wife have come together and gotten close as a result of his diagnosis. [Applicant] reports no symptoms from his disease. His diagnosis is based on blood tests. He reports his doctor says the cancer is

very slow growing and at this point he is not being treated but treatment may start later this year and it is not expected to produce side effects that will interfere with his functioning or mental state. [Applicant] is open to talk about his health issues, and responds in a healthy manner. . . .

[Applicant] stated that he had not yet found a psychologist that is closer to his home. I offered to see him by teletherapy if he wanted to, but stated that, based on his current presentation and level of functioning, I did not think therapy was essential to his continued mental health at this time.

Conclusion

[Applicant] does not have any medical, psychological, psychiatric, emotional, or substance use conditions which could impair his judgment, reliability, or trustworthiness. [Applicant] does not meet criteria (for) any mental health diagnosis. [Applicant] is exhibiting behavior that indicates that his capacity to handle any future extreme acute or chronic stress situations is better that it has ever been, and better than most people. His behavior indicates that he has learned to cope with stress in a manner that facilitates growth, adaptiveness, and flexibility, rather than avoidance, reactivity, and rigidity. (AE V(3))

Department Counsel objected to AE V(3) in her March 25, 2024 email stating, “The Government’s position, as it always is in post-hearing submissions and is supported by Appeal Board precedence, is that any acts or steps taken to mitigate the Government’s concerns after issuance of the SOR, let alone after completion of the administrative hearing, should carry little or no mitigative value.” . . . (AE V(2)).

Character Evidence

Applicant called two witnesses, his younger brother and his wife. Both witnesses provided favorable evidence regarding the progress Applicant has made in coping with his alcohol abuse and PTSD as well as providing favorable character evidence. (Tr. 80-89, 125-144) Applicant submitted evidence documenting numerous service-related awards and decorations as well as employee evaluations. He provided eight character letters of support and recommendation from family members, friends, and coworkers. Each of these letters are impressive by themselves. However, when taken together, they effectively support the mitigated concerns in Applicant’s SOR. They, along with his service-related documents and employee evaluations, not only emphasize that Applicant is a technically proficient individual that works well with others, but also demonstrate he is a person that possesses the type of character to handle classified material. (AE G – O)

Policies

This case is adjudicated 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), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be 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, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2(d), describing 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."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a clearance favorable 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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).

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 alcohol consumption conditions that could raise a security concern and may be disqualifying in this case as follows:

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

(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(c), 22(d), 22(e), and 22(f). Additional discussion is in the mitigation section, *infra*.

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 ¶ 2(b).

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

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.

AG ¶¶ 23(a), 23(b), 23(c) and 23(d) fully apply. Applicant's alcohol misuse took place largely between 2016 and 2017, culminating with his self-admittance to an MTF in November 2017. There are no other alcohol-related incidents in his SOR, that is nearly four-to-five years without incident to the time his SOR was issued. This time lapse could reasonably be classified as infrequent and as sufficient time having passed. Of note, the events in November 2017 happened under unusual circumstances. The concern took place while Applicant was attempting to self-medicate for pain related to his time while on active duty and related insomnia. This is corroborated by the medical records from that time period, included in Applicant's background investigation.

The year 2020 proved to be a pivotal turning point for Applicant. As part of his background investigation for the renewal of his security clearance, the CAF ordered that Applicant submit to a psychological evaluation to clarify his current mental health status. The CAF psychologist, Dr. HMG, submitted an unfavorable Psychological Evaluation in October 2020 that formed the basis for Applicant's April 2022 SOR. Following Applicant's session and Psychological Evaluation with Dr. HMG, Applicant embarked on a course of conduct that consisted of immediate life changes. He removed all the alcohol from his house and gradually stopped drinking until December 2022, at which time he stopped drinking completely.

Applicant's efforts to address Dr. HMG did not end with him stopping drinking. He was proactive and sought professional help from a licensed therapist, Ms. LU. Ms. LU completed a mental health and a substance abuse assessment of Applicant and by letter dated August 2, 2022, addressed his mental health and substance abuse concerns. She concluded that Applicant had no issues with substances or alcohol and did not see any issues with his PTSD symptoms interfering with his employment. Applicant saw Ms. LU from August 2022 to November 2022 and indicated that she is available for future consults if needed. He also sought help to deal with his PTSD from the Wounded Warriors Project and online resources. See page 8, *supra*.

Applicant acknowledged the wrongfulness of self-medicating and has since spoken openly about his struggles with service-related issues which has proved beneficial. He has acknowledged that consuming alcohol can cause problems in a

person's life. Accordingly, Applicant is committed to sobriety. That dedication to sobriety is evidenced by his Pledge to Abstain and following up on his Pledge. Applicant also submitted to a hair follicle test on August 22, 2022, to determine the presence of illegal and/or controlled substances in his system. On August 25, 2022, the test results were returned with a negative finding for all substances tested. Post-hearing, to demonstrate his commitment to sobriety, Applicant submitted a Peth test on February 6, 2023, which is a highly specific alcohol testing method for proof of alcohol consumption within the previous four weeks. On February 17, 2023, the test results were returned with a negative finding.

At the conclusion of Applicant's hearing, I held the record open to afford Applicant an opportunity to submit and comprehensive Psychological Evaluation. Applicant did submit such an evaluation dated June 4, 2023, however, his highly credentialed psychologist, Dr. MC, provided a favorable diagnosis and prognosis, but recommended that Applicant commit to a year of psychotherapy suggesting that further treatment would be helpful. Applicant followed up with a July 25, 2023 letter from Dr. MC stating that Applicant had committed to attend therapy that began on July 19, 2023. See pages 10-11, *supra*.

On March 24, 2024, Applicant's counsel submitted a March 21, 2024 Psychological Update Evaluation from Dr. MC that clearly and comprehensively addressed and mitigated the Alcohol Consumption and Psychological Conditions concerns. See pages 12-13, *supra*.

Psychological Conditions

AG ¶ 27 describes 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 psychological 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;

(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.

The record establishes security concerns under AG ¶¶ 28(a), 28(b), 28(c), and 28(d). Further details will be discussed in the mitigation analysis, *infra*.

Five psychological 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.

AG ¶¶ 29(a), 29(b), 29(c), 23(d) and 29(e) fully apply. The discussion under Alcohol Consumption *supra* is applicable. Applicant has a treatable condition and successfully and willingly treated in the past but is no longer in need of continued treatment for PTSD. Two mental health professionals assessed and treated Applicant, Ms. LU and Dr. MC. To be clear, these mental health professionals have evaluated Applicant for substance abuse and for his PTSD and have found no issues with substance abuse or with his PTSD interfering with his employment or his ability to hold a clearance.

Whole Person Analysis

In all adjudications, the protection of our national security is the paramount concern. A careful weighing of a number of variables in considering the “whole-person” concept is required, including the totality of his or her acts, omissions, and motivations. Each case is decided on its own merits, taking into consideration all relevant circumstances and applying sound judgment, mature thinking, and careful analysis. Under the whole-person concept, 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 or continue national security eligibility “must be an overall common-sense judgment based upon careful consideration of the [pertinent] guidelines” and the whole-person concept. My comments under Guidelines G and I are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed in my discussion of those guidelines, but some warrant additional comment.

Applicant is a 49-year-old cloud solution architect engineer who has spent the majority of his adult life serving in the armed forces or working in the defense industry. As of his hearing, he had successfully held a clearance at some level for 27 years. Applicant has a documented record of sustained superior performance as a service member and as a civilian employee. His awards, decorations, evaluations and reference letters amply document this. Applicant is well-regarded by his co-workers and management. These favorable opinions are equally shared by his friends and associates outside of work.

However, separate and apart from being a model employee, Applicant was haunted by alcohol consumption and PTSD that stemmed from his 2006 combat tour in Afghanistan. For a number of years, his alcohol consumption and PTSD remained untreated or undertreated until he was evaluated by a CAF-psychologist in 2020. Applicant’s evaluation by Dr. HMG served as a wake-up call for him. He recognized the severity of his PTSD and that his alcohol consumption was abusive. After his diagnoses and prognoses by Dr. HMG, Applicant began seeing a licensed therapist, Ms. LU. She ultimately gave him a favorable prognosis in 2022 stating that he no longer had issues with substances, alcohol, or PTSD. Applicant has a sobriety date of December 2022.

Although Applicant had presented a considerable amount of mitigating evidence at his hearing, there remained some concern regarding the conclusiveness of his current status with regard to Alcohol Consumption and Psychological Conditions. Given the fact that Applicant’s combat-related PTSD and related alcohol abuse stem from his

service to his country, I found it appropriate to afford him the latitude of giving him extra time to complete the rehabilitative process he started before his hearing. I found it noteworthy that Applicant recognized that he had problems and was taking the necessary steps to mitigate those problems. Such problems are not cured overnight. It took some time to complete and document the process, but it is clear that Applicant is in a much better place than he was when he self-admitted himself to an MTF in 2017. Applicant recognizes that holding and maintaining a clearance is a privilege. His most recent prognosis and supporting evidence a favorable whole person assessment.

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 v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). Applicant's evidence was sufficient to overcome the *Dorfmont* presumption with respect to the security concerns in the SOR.

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 the Guidelines G (alcohol consumption) and I (psychological conditions) security concerns.

Formal Findings

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

Paragraph 1, Guideline G:	FOR APPLICANT
Subparagraphs 1.a – 1.f:	For Applicant
Paragraph 2, Guideline I:	FOR APPLICANT
Subparagraphs 2.a – 2.e:	For Applicant

Conclusion

In light of the record as a whole, it is clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is granted.

ROBERT TUIDER
Administrative Judge