



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



In the matter of:)
)
) ISCR Case No. 23-01691
)
Applicant for Security Clearance)

Appearances

For Government: Brittany C.M. White, Esq., Department Counsel
For Applicant: Andrew G. Dualan, Esq.

03/31/2025

Decision

PRICE, Eric C., Administrative Judge:

Applicant has not mitigated security concerns raised under Guidelines H (Drug Involvement), E (Personal Conduct) and F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

On August 22, 2022, Applicant submitted a security clearance application (SCA). On November 6, 2023, the Defense Counterintelligence and Security Agency (DCSA) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines H, E and F. This action was taken under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), for all adjudicative decisions on or after June 8, 2017.

Applicant responded to the SOR (Answer) on January 5, 2024, and requested a hearing before an administrative judge. The case was assigned to me on September 10,

2024. On December 2, 2024, after coordination with counsel, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing scheduling the hearing via video teleconference. I convened the hearing as scheduled on February 11, 2025.

Department Counsel offered Government Exhibits (GE) 1 through 6. Applicant testified and offered Applicant Exhibits (AE) A through C. During the hearing, Department Counsel moved to amend the SOR by adding SOR ¶¶ 2.b and 3.f, which I granted without objection. (Transcript (Tr.) 97-101; Hearing Exhibit (HE) I-II) The record was held open until March 3, 2025, to permit Applicant to respond to the SOR amendments and to submit additional documentary evidence. (HE I; Tr. 113-114) He timely responded to the SOR amendments and submitted AE D through G. (HE I-IV) GE 1 through 6 and AE A through G were admitted without objection. DOHA received the hearing transcript on February 24, 2025. The record closed on March 3, 2025.

Findings of Fact

In his response to the SOR as amended, Applicant admitted all allegations with explanations. (Answer; HE I-IV) His admissions are incorporated in my findings of fact.

Applicant is 33-years old. He has earned several information technology (IT) certificates and anticipates earning a bachelor's degree in cybersecurity and information assurance in August 2025. He is unmarried and has no children. (GE 1; Tr. 28-30, 92-93)

Applicant has worked overseas for various defense contractors since August 2012. He has been employed by a defense contractor (Company1) since October 2023. He was hired to work a service desk in Country A and was promoted to computer system administrator. He was employed by a different defense contractor (Company2), as service desk lead in Country B from January 2018 to June 2021 and in Country C from July to August 2022. He worked as a mail handler/clerk for another defense contractor (Company3) in Country B from August 2012 to March 2015 and in Country D from March 2015 to January 2018. He has held a security clearance since July 2012. (GE 1-2; Tr. 19-26, 62-65, 86-92)

Applicant operated a small trucking business in the U.S. from July 2021 to July 2022. He was unemployed from August to October 2022 and provided IT support to a U.S. hospital from October 2022 to October 2023. (GE 1-2; Tr. 19-26, 42-43, 60-75)

Drug Involvement and Personal Conduct

Under Guideline H, the SOR alleges Applicant purchased anabolic steroids in about September 2020, used anabolic steroids two times a week from January to May 2021, and shipped anabolic steroids to himself in Country C in July 2022, SOR ¶¶ 1.a-1.c. Under Guideline E, the SOR alleges he was fired from his employment in about August 2022 for shipping anabolic steroids to himself in Country C, SOR ¶ 2.a. He admitted each allegation with explanation. He purchased anabolic steroids due to weight issues after a surgical weight loss procedure and had them shipped overseas. He denied using anabolic steroids twice per week but admitted occasionally using them from January to May 2021. He claimed that after the steroids were discovered he was open

and honest about his purchase and drug use, and that he did not hide anything from his employer or during a background interview. (SOR Response; HE III-IV; Tr. 30-31)

Applicant has been interested in weightlifting and bodybuilding since high school. He was also interested in trying steroids but was aware possession and use of anabolic steroids in the U.S., without a prescription, was prohibited by law. While working in Country D from 2015 to January 2018, he lost a significant amount of weight through diet, exercise, and advice received from an Army Specialist (friend) he met in 2016. In about 2017, the friend suggested he use steroids, but he did not. After moving to Country B, he followed his friend's advice on how to build strength and muscle mass. In 2019, he had gastric sleeve surgery and lost about 100 pounds. In the fall of 2020, he contacted his friend and asked if he should use steroids to build muscle mass. His friend said it would be a good idea, advised him which substances to use, how to order them over the Internet, and how to use them. (GE 2 at 4-5; Tr. 17-19, 42)

In September 2020, Applicant ordered about eight vials of anabolic steroids from a company in Country E for about \$1,100. He had the steroids mailed to a military facility in Country B where he was working for Company2. He purchased enough steroids for multiple 12-week injection cycles. He first used the steroids in September or October 2020, and then injected the steroids about twice a week from January to May 2021, usually on "Monday and a Thursday." (GE 1 at 38-39; Tr. 33, 91) In June 2021, he shipped the remaining vials of steroids to the United States. (GE 2 at 4-5; Tr. 31-40)

In July 2022, he was rehired by Company2 to work in Country C. He mailed the vials of steroids from the U.S. to Country C with the intent to use them there. On August 8, 2022, the steroids were discovered during an inspection at a military mail facility. During an interview with Army Criminal Investigation Command (CID) investigators, Appellant was cooperative, admitted shipping the steroids to himself, and identified his Army Specialist friend as the person who advised him how to obtain and to use the steroids. A CID military justice advisor concluded "there was probable cause to believe [Applicant] committed the offense of Use the Mail with Intent to Carry on an Unlawful Activity" in violation of 18 U.S.C. § 1952. (GE 5 at 2) On August 15, 2022, Company2 terminated his employment because he shipped steroids to Country B. (GE 1, GE 2, GE 4-5; Tr. 33)

In his August 2022 SCA, Applicant reported he had been fired in August 2022, because:

I mailed myself steroids not knowing they were illegal in [Country C]. They were confiscated by CID. I met with CID and was completely honest with them and told them I made an honest mistake and didn't realize it was illegal until arriving in [Country C] I used steroids while I was deployed in [Country B] and have never used it since . . . [He estimated the month and year of his first and most recent uses as September 2020 and estimated the number of times used as] a twelve week cycle.

(GE 1 at 13-15, 38-39)

On January 23, 2023, Applicant told a government background investigator the following. From January to May 2021, he injected steroids each Monday and Wednesday

while working in Country C. In June 2021 he shipped the remaining steroids to the United States. In July 2022, he mailed the steroids through the U.S. mail system to Country C. He acknowledged knowing that introducing steroids into the U.S. mail system was not legal but said his friend claimed to ship steroids through the mail without problems. He understood that overseas U.S. military installations were bound by U.S. law but did not think such laws would be enforced in a forward deployed area. Based on what his friend told him, he felt the use of steroids by deployed soldiers and contractors overseas was unofficially sanctioned by authorities by not enforcing the rules. He has learned there is no amnesty or immunity from U.S. laws while serving as a contractor on an overseas military installation. He will not engage in future substance misuse because he has learned his lesson and understands he could be fired or charged criminally. (GE 2 at 4-5; Tr. 28-29, 94-95)

Applicant initially testified he was unaware that the use of steroids was illegal in Country C and “didn't realize the severity of it until [they were discovered in July 2022].” (Tr. 36) After being questioned about his more than four years’ experience as a mail clerk in overseas military post offices and when asked why his claims that he did not know it was unlawful to send steroids to overseas military post offices should be believed he responded, “As far as [Country B], me ordering them from another country to [Country B]. I didn't know. As far as me mailing them to [Country C], I knew I could possibly get in trouble if this (sic) were to get confiscated.” (Tr. 88) After being informed his testimony seemed inconsistent with his mail clerk experience, he responded, “I knew what I was doing was wrong.” (Tr. 86-91)

Applicant testified the only person he knew on base who used steroids and who knew how to order them was his friend. He did not disclose his steroid purchase, possession or use to others and explained he typically did not tell coworkers about his online purchases and “[i]t's something [he] chose not to share.” (Tr. 36) He received comments on his muscle gain but “didn't share [the steroid] part.” (Tr. 31-42)

Financial Considerations and Personal Conduct

Under Guideline F, the SOR alleges Applicant has approximately \$37,744 in delinquent debt including a mortgage charged off for \$24,083, and he failed to timely file federal and state income tax returns for tax year (TY) 2021 and TY 2022, (SOR ¶ 3.a-3.f). Under Guideline E, the SOR alleges he falsified material facts in his August 2022 SCA by deliberately failing to disclose he failed to timely file and pay his TY 2021 Federal and state taxes, SOR ¶ 2.b. He admitted each allegation. (Answer; HE II-IV)

Applicant invested about \$50,000 in his trucking business, incurred at least \$30,000 in loans to finance it, and received about \$27,000 when he sold off the assets. He attributes his financial problems to failure of his trucking business, providing proceeds from the sale of some assets to his former fiancée who helped him finance the business, unemployment, and underemployment after being fired in August 2022, and to contributions of about \$600 monthly to help pay for his sister's medication. He planned to pay his debts with income from the lucrative job in Country C. (Tr. 19-30, 42-44, 70-75)

SOR ¶ 3.a: credit account placed for collection of \$4,862. Applicant admitted the allegation, said he entered a payment agreement and that the balance was \$4,284.

(Answer) Credit reports from October 2023 and February 2025 show the account was placed for collection, and with a past due balance of \$4,862 and \$1,994, respectively. He submitted evidence of monthly payments under a payment plan from December 2023 to November 2025, that reduced the past due balance to \$1,994 as of February 2025. (GE 3 at 3, GE 6 at 1; AE A at 8, 16-18; Tr. 19-26, 46-48, 77-78) This debt is being resolved.

SOR ¶ 3.b: loan account charged off for \$24,083. Applicant admitted he was delinquent on the loan, stated the balance was \$23,083, and estimated he would pay the debt off by November 2025. (Answer; AE A at 8) Credit reports from October 2023 and February 2025 show the loan was opened in June 2021, charged off for \$24,083, and with a past due balance of \$13,967 and \$22,483, respectively. Applicant testified he entered an agreement to pay the creditor \$300 per month in January 2024, that he sometimes made extra payments, and that his payments reduced the past due balance to less than \$20,000. He submitted documentary evidence of payments on January 15 and February 4, 2025, and scheduled payments on February 18 and March 3, 2025, but did not provide evidence of payment amounts or account balance. (Answer; GE 3 at 4, GE 6 at 1; AE A at 8, AE C; Tr. 19-26, 49-50, 78-80)

SOR ¶ 3.c: credit card charged off for \$1,762. Applicant admitted the allegation and said the balance was \$1,084. (Answer) Credit reports from October 2023 and February 2025 show the account was charged off with a past due balance of \$1,762 and \$679, respectively. Applicant submitted documentary evidence of monthly payments from November 2023 to July 2024 and paid the debt in full in February 2025. (GE 3 at 5, GE 6 at 1; AE A at 8, AE D, AE G; Tr. 48-49, 78-79) This debt is resolved.

SOR ¶¶ 3.d-3.e: credit cards from same creditor charged off for \$2,444 and \$4,593, respectively. Applicant admitted the allegation and said the combined balance of the two debts was \$2,350. (Answer) Credit reports show the accounts were charged off for \$2,444 and \$4,593, respectively, with past due balances of \$1,420 and \$2,953 in October 2023, and settled for less than the full balance on or before February 2025. Applicant testified the debts were paid and submitted documentary evidence of monthly payments on the debts from November 2023 to July 2024. (GE 3 at 6, GE 6 at 2; AE A at 8, 12-15; Tr. 26, 45-46) These debts are resolved.

SOR ¶¶ 3:f and 2:b: failure to file, as required, Federal and state income tax returns for tax year (TY) 2021 and TY 2022, and falsified material facts on an August 2022 SCA by denying he failed to timely file or pay federal and state income taxes in the past seven years and deliberately failing to disclose he failed to file and pay federal and state taxes for TY 2021. Applicant admitted he did not timely file income tax returns for TY 2021 and TY 2022 and that he falsified material facts on his August 2022 SCA by denying he failed to timely file or pay federal and state income taxes. (Answer; HE III-IV; Tr. 58-59, 74) He said he was overwhelmed with his trucking business, did not timely file the delinquent tax returns because he could not afford to pay taxes due, and planned to file and pay them after starting a lucrative job in Country C. He said he filed TY 2021 and TY 2022 state and federal income tax returns in November 2023 with the assistance of a certified public accountant (CPA); he owed a little more than \$50,000 for state and federal taxes; he entered payment plans with the IRS and state tax authorities in January 2024, and that he had made required monthly payments of \$1,400 or \$700 to

each tax authority. He said another CPA assisted him in filing income tax returns for TY 2017 through TY 2020 and TY 2023. He provided no explanation for falsifying material facts on his August 2022 SCA or for deliberately failing to disclose his failure to timely file and pay federal and state taxes for TY 2021. (Answer; HE I-IV; GE 1 at 42; AE A at 11, AE F; Tr. 52-60, 68-77, 95-96)

Applicant submitted documentary evidence of an IRS installment agreement for TY 2017 through TY 2021 with taxes, interest and penalties totaling \$50,247, as of February 1, 2024, and that he made required monthly payments of \$658 from April 2024 to January 2025. He did not submit documentary evidence regarding overdue state income tax returns or taxes for TY 2021 and TY 2022. (HE I-IV; GE 1; AE A at 11, AE F; Tr. 52-60, 68-77, 95-96) His federal income tax problems are being resolved but there is no evidence he has resolved or is resolving his delinquent state income tax issues.

Applicant said he currently has about \$2,000 remaining after paying his monthly expenses, that he has about \$5,000 in the bank, does not have retirement savings or other investments, and that he does not own a home or vehicle. He submitted evidence of payments from October 2024 to February 2025 on a debt not alleged in the SOR. (Tr. 53-55, 93; AE B, AE E)

During the hearing Applicant was informed of the importance of providing documentary evidence regarding matters alleged in the SOR, including debt payments, contact with creditors, efforts to address or resolve his delinquent debts, IRS records including his tax account transcript, and his current financial circumstances. (Tr. 6-7, 49, 65-70, 113-114)

Character Statements

Applicant submitted evidence from Company1 officials that showed he had been hired and promoted because of his accomplishments, workplace professionalism, technical skills, and his dedication to mission. (AE B at 1-7). He also submitted character letters from his program manager and site lead at Company1, a former coworker and supervisor, a senior master sergeant in the Air National Guard and friend, and a long-term family friend that commented favorably on his character and work performance. (AE A at 20-27, AE B) The general sense of their statements is that Applicant is responsible, technically skilled, professional, communicative, trustworthy, reliable, follows instructions, dedicated to his work and family, a good teammate and leader, and that he should be granted eligibility for access to classified information.

Policies

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

Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines (AG). 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 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision." 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). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988); see AG ¶ 2(b).

The protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt "will be resolved in favor of the national security." Section 7 of EO 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline H, Drug Involvement and Substance Misuse

The concern under this guideline is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

The following disqualifying conditions under AG ¶ 25 are potentially applicable:

(a) any substance misuse (see above definition);

(c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and

(f) any illegal drug use while granted access to classified information or holding a sensitive position.

AG ¶¶ 25(a), 25(c), and 25(f) are established. Record evidence including a CID report and Applicant's admissions show he ordered anabolic steroids in September 2020, first used steroids in September or October 2020, regularly injected them for twelve weeks from January 2021 to May 2021, shipped the remaining steroids to the United States in about June 2021, and possessed steroids until mailing them to Country C in July 2022 where he intended to use them.

The following mitigating conditions under AG ¶ 26 are potentially applicable:

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

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used; and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

AG ¶¶ 26(a) and AG ¶ 26(b) are not fully established. Applicant's claims he last used steroids in May 2021 and last possessed them in July 2022 are supported by the evidence. Although his claims that he intends to abstain from substance misuse because his past substance misuse has had such a significant impact on his employment and finances seem plausible, I did not find his claims that he did not know steroids were illegal in Country C credible. His actions and hearing testimony were unconvincing and inconsistent with someone who was reliably telling the truth on this matter for the reasons discussed below.

In his August 2022 SCA and at hearing he claimed he did not know steroids were illegal in Country C, and told a CID investigator he did not think possession and use of steroids overseas was an issue. In his January 2023 background interview, he acknowledged knowing it was illegal to introduce steroids into the U.S. mail system and that overseas U.S. military installations were bound by U.S. law, but did not think such

laws would be enforced in forward deployed areas based on what he was told by his friend. He later testified “[a]s far as me mailing [steroids] to [Country C], I knew I could possibly get in trouble if [they] were to get confiscated.” (Tr. 88) After being asked to reconcile his claims of ignorance with his extensive experience working in overseas military post offices he responded, “I knew what I was doing was wrong.” (Tr. 88-89) Notably, his friend was the only person he knew on base who used steroids and knew how to order them, and he did not discuss his purchase, possession or use of steroids with others.

Applicant also provided varying accounts of his steroid use. In his September 2022 SCA he reported first and most recently using steroids for a twelve-week cycle in about September 2020 and claimed he had not used them since. He told a background investigator and testified at hearing that he injected steroids two times a week from January to May 2021. And in his January 2024 response to the SOR he admitted using steroids occasionally from January to May 2021, but denied using them twice a week.

His behavior and lack of candor cast doubt on his current reliability, trustworthiness, and judgment. He has not submitted the statement of intent provided for in AG ¶ 26(b)(3), and when considered along with concerns discussed above, I find the evidence insufficient to fully establish the mitigating conditions.

Guideline F, Financial Considerations

The security concern under this guideline is set out in AG ¶ 18:

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. . . .

This concern is broader than the possibility that a person might knowingly compromise classified or sensitive information to raise money. It encompasses concerns about a person’s self-control, judgment, and other qualities essential to protecting classified or sensitive information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified or sensitive information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The record evidence, including credit reports and Applicant’s admissions, establish three disqualifying conditions under this guideline: AG ¶ 19(a) (“inability to satisfy debts”), AG ¶ 19(c) (“a history of not meeting financial obligations”), and AG ¶ 19(f) (“failure to file . . . annual Federal, state . . . income tax returns or failure to pay annual Federal, state . . .

income tax as required”). The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (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
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶¶ 20(a), 20(b), and 20(d) are established for the debts alleged in SOR ¶¶ 3.a through 3.e because Applicant has provided documentary evidence he resolved or is resolving the debts. The failure of his trucking business precipitated his nontax related financial problems and was largely beyond his control. Although the timing and lack of evidence regarding payments on the debt alleged in SOR ¶ 3(b) raise some question as to whether he acted in good faith with respect to that debt, there is no requirement that an applicant make payments on all delinquent debts simultaneously. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). I find that the debts alleged in SOR ¶¶ 3.a through 3.e occurred under circumstances unlikely to recur, that Applicant has acted responsibly under the circumstances and that these debts do not cast doubt on his reliability, trustworthiness, or good judgment.

AG ¶ 20(c) does not apply because there is no evidence Applicant has sought or received financial counseling from a legitimate and credible source.

AG ¶ 20(g) is established for his failure to timely file federal income tax returns for TY 2021 and TY 2022 because his testimony that he filed the delinquent tax returns in November 2023 is corroborated, in part, by evidence he signed an installment agreement with the IRS in December 2023 and has complied with that agreement. AG ¶ 20(g) is not established for his failure to file, as required, state income tax returns for TY 2021 and TY 2022 because he submitted no documentary evidence the delinquent income tax returns have been filed or that he paid or has made arrangements to pay delinquent state taxes.

Guideline E, Personal Conduct

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

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The following disqualifying conditions under AG ¶ 16 are potentially applicable:

(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;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

(1) engaging in activities which, if known, could affect the person's personal, professional, or community standing;

(2) while in another country, engaging in any activity that is illegal in that country; and

(3) while in another country, engaging in any activity that, while legal there, is illegal in the United States.

AG ¶ 16(a), 16(d) and 16(e) are established. Record evidence including a CID report and Applicant's admissions show he was fired by Company2 in August 2022 for shipping steroids to Country C in violation of U.S. law and that he falsified material facts in his August 2022 SCA when he answered no to whether he had failed to file or pay federal or state income taxes in the past seven years and deliberately did not disclose he failed to timely file and pay federal and state income taxes for TY 2021.

Conditions that could potentially mitigate security concerns under AG ¶ 17 include:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(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; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

AG ¶¶ 17(c) and 17(e) are established for the conduct alleged in SOR ¶ 2.a. Applicant's termination from employment in Country C occurred more than 2.5 years ago under circumstances unlikely to recur, was known to U.S. authorities and his employers, and he was returned to the United States after his employment was terminated.

AG ¶ 17(a) is not established for the conduct alleged in SOR ¶ 2.b. Applicant did not make a prompt good-faith effort to correct the falsification of his August 2022 SCA before being confronted with the facts on February 11, 2025. He first disclosed his tax problems at hearing in response to Department Counsel's question about monthly expenses. And though he submitted evidence showing his installment agreement with the IRS addressed overdue taxes from TY 2017 through TY 2021, he testified it was for overdue taxes from TY 2021 through TY 2022. He provided no explanation for why he deliberately failed to disclose his failure to timely file federal and state income tax returns for TY 2021 or to pay taxes due at hearing or in response to the SOR amendment.

AG ¶ 17(c) is not established for the conduct alleged in SOR ¶ 2.b. Applicant's falsification of his August 2022 SCA is arguably infrequent, but it did not happen under unique circumstances unlikely to recur and is not "minor." It "strikes at the heart of the security clearance process." ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011) His conduct casts doubt on his current reliability, trustworthiness, and good judgment.

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.

I have incorporated my comments under Guidelines H, E, and F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I also considered Applicant's age, education, employment history including his years of direct support to deployed military forces, security clearance history, favorable character evidence, efforts to resolve his financial problems, and that he has not possessed or used steroids since July 2022. I also considered Applicant's approximately 22 months of drug involvement while granted eligibility for access to classified information and his credibility problems discussed above.

After weighing the disqualifying and mitigating conditions under Guidelines F, G, and H, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his substance misuse, personal conduct, and financial considerations. Overall, the record evidence leaves me with questions and doubts as to his eligibility and suitability for a security clearance.

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 H:	AGAINST APPLICANT
Subparagraphs 1.a-1.c:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	Against Applicant

Paragraph 3, Guideline F: AGAINST APPLICANT

Subparagraphs 3.a-3.e: For Applicant

Subparagraph 3.f: Against Applicant

Conclusion

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

Eric C. Price
Administrative Judge