DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 22-00010
	)	
Applicant for Security Clearance	)	

Appearances

For Government: John C. Lynch, Esq., Department Counsel

For Applicant: Todd A. Hull, Esq.

09/02/2025

Decision

MARINE, Gina L., Administrative Judge:

This case involves security concerns raised under Guideline J (Criminal Conduct), Guideline E (Personal Conduct), and Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted his security clearance application (SCA) on May 8, 2020. He was interviewed by a Department of Defense (DOD) authorized investigator in connection with his background investigation on November 19, 2020 (Interview #1) and December 3, 2020 (Interview #2). On April 1, 2022, the DOD sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines J, E, and F. The DOD acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented on June 8, 2017.

On April 29, 2022, Applicant responded to the SOR (Answer 1), including documents identified as Enclosures 1 through 20, and requested a hearing. On August 10, 2022, the Government amended the SOR. On August 23, 2022, Applicant responded to the amended SOR (Answer 2). The Government was ready to proceed on August 30, 2022. The case was assigned to me on April 28, 2023. On June 26, 2023, the Defense Office of Hearings and Appeals (DOHA) notified Applicant his hearing was scheduled for July 28, 2023 (DOHA Hearing). The DOHA Hearing was convened as scheduled via video conference.

Applicant and five witnesses testified. Applicant Exhibits (AE) A through Y, and Government Exhibits (GE) 1 through 15, were admitted into evidence without objection. Five administrative documents were appended to the record as Hearing Exhibits (HE) I through V. Upon the request of both parties, I left the record open until August 25, 2023, to allow post-hearing submissions. AE Z through FF, and GE 16 and 17, were admitted into evidence without objection. DOHA received the transcript (Tr.) on August 11, 2023.

Procedural Matters

At the DOHA Hearing, the Government requested the SOR be further amended to conform to the record, as follows: 1) SOR ¶ 1.f, by changing the alleged month from September to February and deleting the last sentence; and 2) SOR ¶ 1.h, by changing the alleged month from October to September. At the DOHA Hearing, the SOR was amended accordingly without objection. Applicant admitted all allegations, as amended, except for SOR ¶¶ 1.c and 1.e, which he denied. (Tr. 99-101, 106-108, 148-149)

At the DOHA Hearing, I advised the parties I would separate from Answer 1 any enclosure duplicated in the proposed exhibits and admit the enclosure instead of the duplicate. Upon further consideration, I retained all 20 enclosures with Answer 1 and all admitted exhibits, including duplicates, to preserve the integrity of the record. (Tr. 99, 109-110, 129-130)

Findings of Fact

Applicant, age 33, has been married twice. He was married to his first wife (Wife 1) from March 2014 until their divorce in May 2016; they have one child (Child 1). He has one child (Child 2) with a former girlfriend (Ms. M); they dated “off and on" from approximately 2014 to 2017. He continues to maintain a strong bond and frequent contact with Ms. M’s Child from another relationship (Ms. M’s Child). He married his second wife (Wife 2) in September 2020; they have one child (Child 3). (GE 1; Tr. 134-135, 142, 156, 173, 272-273)

Applicant graduated high school in June 2010. He served in the U.S. Army from March 2011 until his administrative separation for misconduct in May 2014, as discussed further below. During his military service, he deployed to Country A, a designated combat zone, for about nine months. In June 2023, Applicant received a Bachelor of Science in business with a concentration in information technology (IT) management and began

courses toward earning a Master of Science in cybersecurity. He has received various IT certifications in cybersecurity and information system management. (GE 1; AE B; Tr. 135, 137, 291-292)

Following Applicant's military separation, he remained unemployed until about July 2014, when he began working as a security guard. In about August 2016, he transitioned to the IT field, in which he has since remained consistently employed, except for between about December 2018 and January 2019, and July to September 2020. He worked as a service technician for a private telecommunications company from about August to December 2016. Since then, he has been employed in IT positions by various defense contractors, the details of which were not clear in the record, working in Country A from about April 2017 to July 2020, and in Country B since about June 2022. In July 2023, he was promoted from systems administrator to systems engineer. He has held a security clearance since 2012 without any reported issues. He testified that maintaining his clearance is not only essential for his current position but also personally important, as it enables him to continue supporting the military. Without a clearance, he cannot remain in an overseas assignment, which he views as a particularly meaningful way to contribute. (AE A, U, DD; GE 1; GE 2 at 6; Tr. 10, 43, 137-139, 141, 143, 252-253)

Applicant was not obligated to pay alimony to Wife 1 and is not currently under any court-ordered child support obligation. However, by mutual agreement, he pays both Wife 1 and Ms. M monthly child support based on his taxable income; he specified paying $600 directly to them, with "the difference" contributed to each son's brokerage account or life insurance policy. Both Wife 1 and Ms. M indicated he is current with these payments. Wife 1 stated he also pays about $100 each year for his 50% share of Child 1's school supplies plus unspecified sums upon her request for "extra stuff like food," for birthdays and Christmas, and "other things" Child 1 needs. Wife 1 denied financially depending on Applicant or anyone else. Ms. M stated she "can count on him to make sure [Child 2] has everything he needs." Applicant previously had strained and volatile relationships with both Wife 1 and Ms. M, and they with each other, as discussed further below. As of the hearing, all parties maintained cordial and friendly relations. (Answer 1 at 6; AE Z; GE 2 at 32; Tr. 17, 25-26, 55-56, 65-67, 134-135, 155, 173, 181-182, 228-229, 271, 293)

Applicant maintains flexible custody arrangements with both Wife 1 and Ms. M, due to his overseas residence and Ms. M's active-duty military status. Child 3 resides with him and Wife 2 full time; Child 1 and Child 2 reside with them full time whenever he is in the United States. Approximately two weeks after the DOHA Hearing, Ms. M was scheduled to travel to Country B with Child 1, Child 2, and Ms. M's Child for a "family vacation" with Applicant and Wife 2. Wife 2 testified she and Applicant paid for Ms. M's plane ticket for this trip. Following the vacation, Child 1 was expected to remain in Country B for an extended visit with Applicant and Wife 2 until the start of the school year; while Child 2 was expected to stay and reside in Country B with them full time "for a few months or longer depending on the outcome of [this adjudication] as it will affect [Applicant's] employment." This was to be the first time Child 1 travelled overseas to stay with Applicant; the record does not address whether the same was true for Child 2. (*Id.*)

SOR Allegations

From April 2013 to December 2015 (ages 21 to 24), Applicant was charged with eleven criminal offenses stemming from nine separate incidents, including four assaults (one involving Wife 1 and two involving Ms. M) and one driving while impaired (DWI), as alleged under Guideline J (SOR ¶¶ 1.a through 1.k) and cross-alleged under Guideline E (SOR ¶ 2.c). In May 2014, he was administratively separated from the Army for misconduct relating solely to the DWI, as alleged under Guideline E (SOR ¶ 2.b). As alleged under Guideline F, he received a Chapter 7 bankruptcy discharge in December 2015 (SOR ¶ 3.a), and he failed to timely pay federal income taxes for tax years (TY) 2016 and 2018 (SOR ¶¶ 3.b and 3.c). In January 2017, his credit union account was investigated for fraudulent activity, as alleged under Guideline E (CU Incident) (SOR ¶ 2.a) and cross-alleged under Guideline F (SOR ¶ 3.d).

Applicant initially denied he had been charged in four separate assault incidents, creating inconsistencies in the record. At the DOHA Hearing, he ultimately acknowledged all four charges, as discussed further below. He asserted that a background check he conducted on himself before completing the SCA did not list all the charges, and he had no independent recollection of the omitted ones due to poor memory and confusion about the individuals or dates involved. Without corroborating evidence, he stated his memory issues may stem from an attention deficit hyperactivity disorder (ADHD) diagnosis he received as a child, which he testified he manages without medication or medical care. (Answers 1 and 2; GE 1; GE 2 at 14; Tr. 146, 148-149, 154, 163, 251, 260-261, 280, 282)

April 2013 Incident (SOR ¶¶ 1.i, 2.c). In April 2013, Applicant was arrested and charged with misdemeanor disturbing the peace. In October 2013, he was found guilty *in abstentia* and fined $300. During Interview #1, he acknowledged wrongdoing, admitting he disobeyed an officer's warning to stop screaming at a person with whom his brother had a previous altercation. In his Answer and at the DOHA Hearing, he acknowledged he and his friends were arrested for engaging in a verbal altercation, and one friend was also charged with assaulting an officer and resisting arrest. However, he claimed he was only arrested because he was affiliated with the group and denied engaging in the verbal altercation or any other misconduct. He no longer associates with any of those friends. He acknowledged his mistake in his prior associations with them, particularly given his awareness of the impact criminal charges could have on his military career. He recognized he could have removed himself from the situation by leaving in a cab as soon as the verbal altercation began. (Answer 1 at 8; GE 2 at 14; GE 13; Tr. 221-224)

September 2013 Incident (SOR ¶¶ 1.h, 2.c). In September 2013, Applicant was arrested and charged with misdemeanor public intoxication. In October 2013, he was found guilty *in abstentia* and fined $125. He accepted full responsibility for his misconduct – cursing loudly while appearing on a public beach in an intoxicated condition, in violation of a local ordinance clearly posted on signs and after disregarding an officer's warning to lower his voice. For both 2013 charges, he elected to pay the fine in lieu of appearing in court because he was on active duty out of state. (Answer 1 at 8; GE 2 at 14; Tr. 220-223)

February 2014 Incident (SOR ¶¶ 1.f, 2.c). In February 2014, Applicant chugged juice mixed with two shots of alcohol at his home off post and then drove his vehicle on post to pick up a friend. He stated he did not feel intoxicated before he left home. During a traffic stop on post, a military police officer (MPO) detected an odor of alcohol emitting from his person and transported him to the Provost Marshall's Office (PMO). The PMO cited him for misdemeanor DWI with a 0.11 % blood alcohol content (BAC) and referred the matter to the commander. In July 2014, he was formally charged with DWI in federal court. In September 2014, the commander elected not to take administrative or disciplinary action but ordered him to attend the Army Substance and Abuse Program (ASAP), which he completed. While in ASAP, he was not diagnosed with an alcohol use disorder nor otherwise recommended for further treatment. After discovering the federal DWI charge for the first time during the security clearance process, Applicant hired an attorney to help him obtain a dismissal. Federal court records reflect the charge had never been adjudicated due to lack of proper service. In May 2023, the charge was dismissed upon the prosecutor's motion. (AE L; GE 2 at 8, 37; GE 8, 9; Tr. 211-214)

At the DOHA Hearing, Applicant accepted full responsibility for driving after consuming alcohol. The DWI was a "big wakeup call," causing him to lose the military career he had dreamed of since age 10 and intended to serve for 20 years. He has never driven under the influence of alcohol since the DWI. He acknowledged the negative impact of his excessive consumption of alcohol, including its role in both 2013 arrests, and took steps to modify his intake, as discussed further below. (Tr. 212-215, 220-224)

April 2014 Incident (SOR ¶¶ 1.g, 2.c). During an April 2014 traffic stop, Applicant was issued a summons and later charged with misdemeanor driving under a suspended license. In May 2014, he was found guilty in *abstentia* and fined $150, which he elected to pay in lieu of appearing in court because he was on active duty out of state. At the DOHA Hearing, Applicant testified he was unaware of the suspension until the traffic stop, having recently returned from an overseas military deployment. He later learned the suspension notice was sent to his U.S. address of record, his mother's residence, and was not timely conveyed to him. After discovering he can check his license status online, he intends to do so before driving again in the United States. He expressed confidence a similar incident would not recur. (Answer 1 at 7; AE I; GE 2 at 12; Tr. 216-218)

May 2014 Army Separation (SOR ¶ 2.b). In May 2014, Applicant was administratively separated from the Army at the rank of E-4 (Specialist) for misconduct based solely on his February 2014 DWI. He initially received a general discharge under honorable conditions. In March 2020, his discharge was upgraded to honorable. (Answer 1 at 10; AE C; GE 2 at 7, 30-31, 52, 54; Tr. 233, 258-259)

July 7, 2014 Incident (SOR ¶¶ 1.k, 2.c). On July 7, 2014, Applicant was charged with misdemeanor assault and battery against Wife 1's male friend. He was issued a summons and not arrested. In October 2014, he pleaded not guilty, and the charge was later dismissed for reasons not stated. At the DOHA Hearing, he denied any wrongdoing, maintaining he and the friend had no contact and merely stood together while observing a physical altercation between Wife 1 and Ms. M; and then he eventually called the police.

When the officer arrived, only Wife 1 was arrested for assault, which he believed stemmed from her spitting on him; he elected not to pursue the charge. He claimed the friend later falsely accused him of assault in retaliation for Wife 1's arrest. He denied assaulting anyone during the incident. At the DOHA Hearing, Wife 1 confirmed that she and Applicant had no physical contact during the incident, but stated she could not testify to what occurred between Applicant and her friend, as her attention had been directed toward Ms. M. (AE H; Tr. 78-81, 149, 151-152, 176, 178, 209-211, 227-228)

July 13, 2014 Incident (unalleged). On July 13, 2014, a separate, unrelated incident occurred between Wife 1 and Applicant, according to a petition for a family abuse protective order that Wife 1 filed on July 16, 2014, including Wife 1's sworn affidavit stating that Applicant tried to pull her and Child 1, then age one, out of a moving car and threatened to kill her, and that her toe was "badly scraped" in the process. On August 15, 2014, the court issued a family abuse protective order against Applicant (PO-1), effective until August 15, 2016, "to protect the health and safety" of Wife 1 and Child 1. Upon its issuance, Applicant was personally served with a copy of PO-1, which contained provisions prohibiting him from: committing "acts of family abuse or criminal offenses that result in injury to person or property;" having any type of contact with Wife 1 and Child 1, except for court-ordered visitation; and purchasing or transporting a firearm. Neither this incident nor PO-1 was specifically alleged in the SOR, but SOR ¶¶ 1.b and 1.d reference Applicant's violations of PO-1. Accordingly, this incident and PO-1 will be considered only for the purposes of evaluating mitigation, the whole-person concept, and to the extent they relate to SOR ¶¶ 1.b and 1.d. (GE 2 at 56; GE 17 at 1-5)

At the DOHA Hearing, Applicant's testified about two separate July 2014 incidents involving Wife 1, without referencing specific dates. His description of the first incident – "the night [Wife 1] and [Ms. M] got into an altercation" and 'Wife 1 was arrested for assault" – correlates with the July 7, 2014 incident. In describing the second incident, which he stated occurred "about a week" after the first incident, he proffered a materially different version of events than Wife 1's affidavit. However, the record reflects he was referring to the July 13, 2014 incident. According to Applicant: Child 1 was staying at his mother's house due to Wife 1's July 7th arrest; he told Wife 1 to meet him at his mother's house with a third party "so she could see" Child 1; Wife 1 arrived with her sister; while they gathered outside next to the sister's car, Wife 1 held Child 1 in her arms; at some point, Wife 1 "jumped in the car" with Child 1 and her sister "sped off." He testified,

> I believe my belt loop, or shirt, or something got caught on [her sister's] car . . . I still have the scars, but I don't have like actual evidence. I . . . got [dragged] by [her sister's] car for 30 feet with mass lacerations everywhere on my body. That same day, [Wife 1] went and filed a protective order . . . I didn't go to the initial [PO hearing] because I was actually still recovering. When I went to the second [PO hearing], I didn't even get to speak. The judge was just like stay away from her, and he slammed his gavel . . . (Tr. 177-179)

At the DOHA Hearing, Wife 1 initially downplayed the July 13, 2014 incident and minimized Applicant's culpability, indicating that, in retrospect, she believed she had overreacted to the situation. However, during later testimony, Wife 1 admitted she pursued PO-1 in connection with the incident because "I was in fear for my life . . . I was scared . . . I felt that way at that particular time." She also testified that, before PO-1 was issued, a 72-hour protective order had been issued against Applicant, and then extended for two weeks. Although she referenced a different date during her testimony, the record reflects she was referring to the July 13, 2014 incident. (Tr. 77-81)

October 2014 Incident (SOR ¶¶ 1.e, 2.c). On October 29, 2014, at 1:00 p.m., a police officer responded to Ms. M's residence to investigate an incident. The record reflects the incident occurred that day but does not identify the reporting party or the precise time. According to the officer's narrative in the police report: Applicant kicked in the door to retrieve a laptop (described as his only remaining possession in the residence), after Ms. M (described as his ex-girlfriend) refused him entry; Ms. M alleged Applicant grabbed her from behind and choked her to unconsciousness "for 10 seconds;" and Applicant admitted he pushed her "to get her off him." The officer observed bruising on Ms. M's chest and what appeared to be a rug burn on her knee, but no bruising on her neck. Despite noting some uncertainty about Ms. M's account in his narrative, the officer arrested Applicant at 2:50 p.m., after a magistrate found probable cause to charge him with misdemeanor assault and battery against a family or household member based upon the officer's "sworn statements." In February 2015, the court ordered the charge *nolle prossed* on the prosecution's motion for reasons not stated. (GE 7; AE BB)

At the DOHA Hearing, Applicant denied knowledge of either the incident or the arrest, stating that neither appeared in his background check. He testified he did not remember any incident where he "kicked down a door;" stated Ms. M lies "a lot;" and denied recalling that he admitted to pushing her. Without proffering supporting evidence, he further asserted, "you can't choke someone out unconscious without bruises." When confronted with the officer's narrative, he denied both the officer's and Ms. M's accounts but confirmed that the address was one he previously shared with Ms. M. When asked about the inconsistency between his testimony and the record showing he was fingerprinted and arrested in connection with the incident, he responded, "I believe I was arrested at the scene." The record does not reconcile that statement with his earlier denials. (Tr. 272-280)

During his testimony, Applicant recounted an event at the same residence where, after moving out, he returned to retrieve belongings he had left behind; he did not specify either date. It is unclear from the record whether the event occurred on October 29, 2014, or was a separate, unrelated incident. His account included Ms. M throwing his laptop, military papers, and clothes into a lake; his description of the location from which she threw the items varied. He indicated he did not assault or otherwise engage in misconduct toward Ms. M during the event, and was never arrested or charged in connection with it. He stated he had difficulty remembering the details of the event, explaining "*it* is a lot" and "I don't even remember actually . . . getting in the [residence]. So, I'm not sure if *that* happened outside . . ." (emphasis added), without specifying to what "*is*" and "*that*"

referred. He referenced neighbors who witnessed the event but said he had no means of contacting them to testify at the DOHA Hearing. (Id.)

April 2015 Incident (SOR ¶¶ 1.c, 1.d, 2.c). On April 6, 2015, Applicant attempted to purchase a firearm from a licensed dealer and was advised the sale required a same-day background check. When he returned to complete the purchase, a state trooper arrested him for misdemeanor attempt to purchase a firearm while being subject to PO-1. He was released on his own recognizance with a summons to appear in court on April 9, 2015. When he failed to appear, a *capias* was issued, and he was arrested and charged with misdemeanor failure to appear (FTA). As a result, his $2,000 bond was forfeited. He was released again, with the matter continued to May 11, 2015, for a consolidated trial. On that date, the firearm charge was dismissed due to the absence of the arresting state trooper. Applicant pleaded not guilty to the FTA charge and, after trial, was found not guilty. (AE F, G; GE 2 at 12; GE 17 at 3-5; Tr. 194-196, 199)

During Interview #1, Applicant claimed that, at the time he attempted the purchase, he did not think he was doing anything illegal because he believed he had only been subject to a 72-hour protective order that had expired. In Answer 1, he claimed that, at the time he attempted the purchase, he was unaware he was prohibited from doing so, and that he did appear in court on April 9, 2015. At the DOHA Hearing, he acknowledged knowing a valid protective order was in effect when he attempted the purchase but claimed he was unaware of the firearm restriction. Although he signed paperwork acknowledging the order, he claimed he was not verbally informed of the restriction and had not read the order closely. He admitted his mistake in failing to review the order carefully. He testified he had no plans to purchase a firearm in the future, was no longer subject to a valid protective order, and intended to read all future court documents thoroughly. As a former infantryman, firearms were a normal part of his life and he had no "ill intent[]" in attempting the purchase. (Answer 1 at 6; GE 2 at 12; Tr. 194-197)

September 2015 Incident (SOR ¶¶ 1.b, 2.c). On September 22, 2015, Applicant was arrested and charged with two misdemeanors: assault and battery of a family member (Wife 1) and violation of a protective order (PO-1). The protective order charge was based solely on the assault. On November 10, 2015, he was convicted of both charges and a new protective order (PO-2) was issued against Applicant, effective until November 10, 2017, "to protect the health and safety" of Wife 1 and Child 1, then age two. PO-2 prohibited Applicant from: committing "acts of violence, force, or threat or criminal offenses that may result in injury to person or property;" having any type of contact with Wife 1 and Child 1, without exceptions; and purchasing or transporting a firearm. He timely appealed and was granted a *de novo* trial, which took place in April 2016, during which he pleaded not guilty, and the court dismissed both charges for reasons not stated. PO-2 was not modified by any court. As PO-2 was not alleged in the SOR, it will be considered only to evaluate mitigation and the whole-person concept. (AE D, E; GE 17 at 6-7; Tr. 147, 185)

Applicant denied he assaulted Wife 1 or violated PO-1, characterizing the charges as "baseless." He explained his contact with Wife 1 and Child 1 on September 22, 2015,

occurred in connection with a visitation exchange, permissible under PO-1. According to him: a verbal argument ensued because Wife 1 opposed his plan to take Child 1 to his mother's house; Wife 1 attempted to remove Child 1 from the car and deny him visitation; Wife 1's sister called the police; and after speaking with Wife 1 and her sister, the officer placed him under arrest. During Interview #1, he denied trying to prevent Wife 1 from taking Child 1. At the DOHA Hearing, he admitted he stood in front of the car door to prevent her from removing Child 1 from the car. (Answer 1; GE 2 at 13, 32; Tr. 177-190)

At the DOHA Hearing, Applicant attributed the charges to Wife 1's claim that he "grabbed" her, which he initially denied because he construed "grabbing" as "restraining someone." He later admitted to grabbing her wrists, but only to "block her attacks," which he described as her pushing, hitting, and bumping him. He testified the lower court's conviction was based solely on Wife 1 and her sister's testimony, as his attorney advised him not to testify. Without corroborating evidence, Applicant claimed that, after asserting self-defense at his *de novo* trial, the court informed him that the charges were being dismissed because he was making child support payments and had not assaulted Wife 1. (Tr. 177-190)

At the DOHA Hearing, Wife 1 described the incident as an altercation or scuffle she initiated. She admitted hitting Applicant but denied he pushed or hit her. She recalled him telling her, "don't put your hands on me," and moving her hands to "protect himself." She attributed the incident, in part, to her issues with Ms. M. She denied further incidents or law enforcement involvement since the then. She testified that, in retrospect, she regretted pursuing the charges and PO-2. She explained that, while she was aware of the potential criminal consequences for Applicant, she did not fully comprehend their implications. (Tr. 53-56, 58-60, 68-77)

During later testimony, Wife 1 admitted she sought PO-2 out of fear for her safety at the time of the incident. She testified that the court initially issued a temporary two-week order and then PO-2, based upon her testimony that she "didn't feel safe at the time" and "was in fear for my life." She explained, "That's just how I felt at that time," adding that, in hindsight, she believed she sought PO-2 "more so" to avoid having "to deal" with Applicant and Ms. M. Regarding Child 1's inclusion on PO-2, she stated, "[the court] asked me if I wanted to add my son permanently so [Applicant] couldn't see him. And I said yes." She confirmed PO-2 remained in effect until November 10, 2017, and that Applicant had no visitation with Child 1 during that time. (*Id.*)

December 2015 Incident (SOR ¶¶ 1.a, 1.j, 2.c). On December 24, 2015, at about 8:25 p.m., a police officer responded to a "priority two dispute" at Applicant and Ms. M's shared residence. The record reflects the incident occurred that day but does not identify the precise time. Applicant told the officer: he had been sleeping while Ms. M was away from the residence; when Ms. M returned to the residence, she woke him up; and then they began to have a "verbal altercation" as he was holding Ms. M's Child in his arms. Ms. M told the officer that Applicant: stood up, lunged toward her, and threw Ms. M's Child, then age four, on the ground, causing a hematoma to the back of his head; then grabbed her and bashed her in the head; and then punched her in the face several times.

Ms. M reported Applicant also threatened to shoot Ms. M's Child and that Applicant "did have a gun." The officer observed a hematoma on Ms. M's forehead. (GE 3; Tr. at 173)

After Applicant was placed in custody, Ms. M escorted the officer to a vehicle in the parking lot and "located a pistol with a filed off serial number" under a bag of clothes on the passenger seat. After he was read his *Miranda* rights, Applicant would not make any statements in reference to the firearm but stated that both he and Ms. M used the vehicle, claiming Ms. M was the last to drive it. Ms. M denied ownership of the firearm and stated she did not want it in the residence. The officer subsequently seized the firearm and Applicant was arrested and charged with misdemeanor assault and battery against a family or household member. In March 2016, the court dismissed the charge for reasons not stated. At the DOHA Hearing, Applicant initially testified he did not know why the charge was dismissed. He later indicated the prosecutor told him, either at his arraignment or in a letter, that she was not moving forward with the case, and he believed the prosecutor "said something about [Ms. M] going into the military." (AE CC; GE 3; Tr. at 164-167, 174-175)

At the DOHA Hearing, Applicant denied assaulting Ms. M on December 24, 2015, or at any other time. He stated their relationship involved frequent verbal arguments, but never physical violence. He remarked that, in hindsight, he should have left the relationship earlier than he did and, that night, he should have called the police instead of trying to open the door. He denied each detail of Ms. M's account and then proffered his version of events, stating: as he was getting ready for work, he and Ms. M had a "verbal argument," about what he did not recall; Ms. M used her body to block the front door to prevent him from leaving to go to work; he pulled the door open so he could get out; and then Ms. M called the police. (Tr. 145-147, 153-154, 158-175)

During later testimony, Applicant indicated a neighbor called the police, not Ms. M, and added the following details to his account: he wanted to leave the residence because he "felt the situation was just escalating too much. As far as the arguing . . . I would imagine [our neighbors] could clearly hear us" and also because he was late for work; although Ms. M "leaned completely all her weight" against the door, he did not have to touch Ms. M to open the door; he "just open[ed] the door and pulled the doorknob[];" he had "one hand on the doorknob, and once I got it open, I put my left hand on the door itself;" he did not recall "any time where there was enough space in between the door and Ms. M for [the door] to . . . hit back on her." When asked to address the visible injury observed by the officer, he denied he personally observed any visible injuries and testified,

> I can't say how it would have happened . . . I mean all I could say is that I didn't touch her physically. And unfortunately, it is a lot easier than people may assume to take charges out on people or even make up lies, so . . . I'm not saying the officer's lying. I would have no way of [knowing] that . . . I don't even know what the officer saw, so it's really hard to say how it got there . . .

> [Ms. M's Child] has been in my life since 2015 . . . when I was [living in the United States], he'd come to my house. He's coming to see me now in [Country B]. I've always had him. And, again, I can't say what the officer saw or did, but I can't imagine someone would witness you harm their child and then decide that their child could come with you in another country. So, again, . . . I don't know what the cop saw or what he didn't see, or what exactly was on her forehead, or what was claimed to be on Ms. M's Child's head. (*Id.*)

At the DOHA Hearing, Applicant testified that no criminal charges were filed in connection with the firearm found in the vehicle. He acknowledged owning the vehicle but denied owning the firearm, stating he was surprised by its discovery. He testified that the firearm belonged to his brother and that he believed the bag of clothes belonged to Ms. M, both of whom frequently drove the vehicle. Applicant's brother also testified, stating that he legally purchased the firearm from a licensed dealer and left it in the vehicle without Applicant's knowledge, though he was uncertain about the exact date and location where he left it. His brother denied ever noticing the defaced serial number on the firearm. He also denied ever having been convicted of a felony or any crime involving lying, cheating, or stealing. (Tr. 89-90, 95, 160, 165-167, 226)

December 2015 Bankruptcy Discharge (SOR ¶ 3.a). Applicant filed a Chapter 7 bankruptcy petition in September 2015, reporting liabilities totaling $51,785, including a $9,146 federal student loan, as amended in November 2015. He received a Chapter 7 discharge in December 2015. He paid all his federal student loans (totaling $25,427) as of June 2021. He attributed the bankruptcy primarily to his lack of emergency savings and falling behind paying bills due to having difficulty finding gainful employment following his unexpected separation from the Army. He also acknowledged he had been living beyond his means and taking on too much debt, as he had not yet learned how to manage finances. (Answer 1 at 11-12; AE T; GE 2 at 15; GE 15; Tr. 236, 245)

Applicant consulted an attorney about various options for repaying his debt besides bankruptcy, but none were feasible due to his underemployment. He elected to file bankruptcy to secure his financial future. Since filing for bankruptcy and securing gainful employment, he has managed his finances responsibly, lived below his means, and learned about financial management, through his own efforts and with the help of financial counselors, including one provided through bankruptcy, and one who currently manages his investment portfolio. He established emergency savings sufficient to cover six months of expenses, the balance of which was $15,000 as of the DOHA Hearing. He utilizes a written budget, contributes to a retirement account, and maintains investment properties. He intends to continue educating himself about finances and sharing his knowledge with members of his family and others. (Answer 1 at 11-12; AE N-X, DD-FF; Tr. 236-245, 253-254, 293-294)

TY 2016 and TY 2018 Federal Income Taxes (SOR ¶¶ 3.b and 3.c). Applicant timely filed his federal income tax returns for TY 2015 through 2021, but did not timely pay federal income taxes he owed for TY 2015, 2016, and 2018. He did not owe federal

income taxes for TY 2017, 2019, 2020, and 2021. As TY 2015 was not alleged in the SOR, I will consider it only to evaluate mitigation and the whole-person concept. (AE M)

For TY 2015 and 2016, Applicant initially received refunds and was later assessed taxes, late fees, and penalties due to disallowed credits; for TY 2017, he initially owed taxes. The Internal Revenue Service (IRS) sent notices in January 2018 (TY 2015), December 2017 and August 2018 (TY 2016), and June 2019 (TY 2018); however, they were sent to his U.S. address of record, his mother's residence, and were not timely conveyed to him. TY 2015 was resolved via a $801 TY 2017 credit. TY 2016 was resolved via a March 2019 installment agreement, with 14 payments totaling $7,839 between April 2019 and June 2020, and a $510 TY 2019 credit. TY 2018 was resolved via a June 2019 installment agreement, initiated within two weeks of receipt of the IRS notice, with 12 payments totaling $7,635 between June 2020 and March 2021. (AE M; Tr. 290-291)

Applicant attributed his untimely payments to his lack of expertise, mistaken reliance on the advice of colleagues, and overseas employment. He specified the TY 2016 and 2018 issues resulted from errors he made regarding claiming Child 1 as a dependent, and reporting his overseas income, respectively. Upon beginning work overseas as a defense contractor in 2018, he mistakenly believed that he was not required to pay U.S. federal income taxes. He later learned he was obligated to pay taxes on foreign earnings above a certain threshold. He resolved the TY 2016 and 2018 issues on his own but has since engaged the assistance of a tax professional to ensure timely filings and set aside funds for future tax obligations. He planned to file his TY 2022 return on time under an approved filing extension and did not expect to owe any taxes. (GE 2 at 15, 19; Tr. 23, 246-249, 295-296)

Applicant recognized he should have hired a tax professional at the outset, rather than relying on colleagues' advice. He also realized that relying on IRS installment agreements to pay his taxes, despite the benefit of low interest payments, could negatively affect his security clearance. Moving forward, he plans to pay any taxes owed promptly, using emergency savings if needed, without relying on a payment plan. He does not anticipate any future tax issues. (Tr. 246-249)

January 2017 CU Incident (SOR ¶¶ 2.a, 3.d). In January 2017, a suspicious transfer of $3,742 was deposited into Applicant's credit union checking account, prompting the credit union to lock his account and initiate a fraud investigation. In February 2017, the credit union concluded Applicant was a victim of a fraudulent scheme that victimized at least one other credit union member, and then reversed the $3,742 transaction and closed his compromised account. (Answer 1; GE 2 at 20; GE 16; Tr. 263)

Applicant denied any wrongdoing in connection with the CU Incident. However, he acknowledged his mistake and bad judgment in trusting his sister with access to his account, which he later learned she used to facilitate the $3,742 transaction. Throughout the security clearance process, he provided varying explanations regarding why he allowed his sister access, how he provided her access, and his understanding of her

involvement in the fraudulent scheme. (Answer 1; GE 16; GE 2 at 15-17, 19-20, 33; Tr. 229-232, 261-268)

When confronted during Interview #1, Applicant initially denied knowing his account was involved in the fraudulent scheme for reasons not indicated in the record. He then proffered the following details: his sister told him that if he gave her $300, she could turn it into more money; he gave her $300, which he never got back, along with his account number and debit card (just before leaving for Country A); and his sister said she would use his account number to return money to him and planned to withdraw cash from an ATM using his debit card and then deposit funds into his account (which, to his knowledge, never occurred). (GE 2 at 15-16)

Later during Interview #1, Applicant stated he had not given his sister any money besides the $300; and that this was the only time he had given her money. He recounted initiating a conversation with his sister after learning his account had been locked, during which she replied, "my bad" and "they told me it could be more money." He explained "they" referred to a third party known to his sister by name, but unknown to him. He stated his sister said she did not know what the third party was doing but believed it was not illegal. He stated this was the first time she mentioned a third party. He denied that his sister, or anyone else, had been arrested in connection with the incident, and stated that his sister was doing well, without further elaboration. (GE 2 at 16-17)

During Interview #2, Applicant provided additional details: his sister never explained how she would turn the $300 into more money and may not even have known herself; he recalled she said she did not really know what was going on and did not name the person she had spoken with; and she never brought up a similar transaction again. He stated he did not know the outcome of the credit union's investigation, but after closing his compromised account, it issued him a new account and debit card. He also indicated that the new account may have been closed for inactivity since he had not used it in a long time. At the DOHA Hearing, he explained that he stopped using the new account because the credit union restricted it from holding a debit card due to the fraud incident, rendering it "useless" to him. (GE 2 at 20; Tr. 268)

In response to March 2022 interrogatories propounded by DOHA, Applicant stated,

> I do admit to . . . granting my sister . . . access to [my account] for an investment opportunity. . . My sister . . . told me about an investment opportunity and that she would need my account information once the funds settled . . . From my understanding, my sister transferred money into my account and $300 was taken out from the ATM . . . my sister . . . never explained to me what happened or what she did. It is clear to me now that my sister may have set me up so that she could steal money from me . . . (GE 2 at 33)

In Answer 1, Applicant reiterated his interrogatory response and also asserted: his sister "actually attempted to steal money" from him; he understood that "money was

transferred into his account, and $300[] was taken from an ATM, which was eventually returned to him;" and he no longer maintained an active account with his credit union. (Answer 1 at 9-10)

At the DOHA Hearing, Applicant testified "my sister . . . asked me for $300 . . . it's my younger sister, I thought I was helping her out . . . she said she needed access to my [Personal Identification Number (PIN)] and my debit card. So that was the information I gave to her." He maintained he did not know her intentions or how the process worked, stating "as much as I studied [security] it still escapes me to this day, I don't even know how that's possible . . ." (Tr. 229-231)

On cross-examination, Applicant acknowledged that his sister was an adult at the time of the CU Incident (his mother confirmed his sister was 28 years old as of the DOHA Hearing). He also had the following exchanges with Department Counsel:

> DEPARTMENT COUNSEL: You gave her more than just the [PIN] for your debit card, right?
>
> APPLICANT: I gave her the debit card and my [PIN].
>
> DEPARTMENT COUNSEL: You also gave her the ability to access your account on the internet, right?
>
> APPLICANT: I may have, yes. I don't, I don't believe I, I don't think there was any reason to, I mean, all that happened was that . . . as explained to me, she removed [$300] after that transfer came in and kept it. I guess that's the scam. You transfer money somehow and you remove money before [the credit union] catches it . . . Again, she claimed to me that, but as I learned later on, it is a scam that happens to millions of people . . .
>
> DEPARTMENT COUNSEL: You also gave her your account number, correct?
>
> APPLICANT: I believe I just gave her my debit card and my [PIN] . . .
>
> DEPARTMENT COUNSEL: Your sister asked you to give her $300, correct?
>
> APPLICANT: Yes. Yes.
>
> DEPARTMENT COUNSEL: And you gave her $300?
>
> APPLICANT: I did. Correct.
>
> DEPARTMENT COUNSEL: And this was around the time you also gave her the [PIN] and your debit card, right?

APPLICANT: That's correct . . .

DEPARTMENT COUNSEL: . . . During this conversation you had with your sister, she told you that if you give her the information and the $300, she would be able to make you more money with that $300, correct?

APPLICANT: That's correct. That was the gist of it. (Tr. 34, 261, 263-266)

At the DOHA Hearing, Applicant's mother and brother testified Applicant was "trying to be helpful to his sister" and did not expect she would "mess[] up" his account. His mother said his sister: "scams banks and people all the time to this day;" had legal issues "plenty of times" since age 18, including attempting to steal school computers, shoplifting, and an outstanding warrant for assaulting her and her granddaughter. On cross-examination, Applicant's mother confirmed Applicant and his sister were raised in the same home. She acknowledged he "probably knew some about" the sister's criminal history prior to the incident, while asserting "due to his military service, he "wasn't really around . . . a lot of things happened when he was away . . . he really didn't know what was going on." Applicant later denied he knew any of his sister's criminal history at the time he provided her access to his account. (Tr. 30-36, 92-93, 230-231, 262)

Applicant asserted he had no intention of being involved in any similar incident again. He explained he let his emotional attachment to his sister override his judgment but has since learned from the mistake and no longer trusts her with financial matters. He understands he "should not give anyone [his PIN] or [his] card or any access" to his account. Once he realized his sister was a criminal, he "stopped helping her," believing she is a "lost cause." (GE 2 at 16; Tr. 19, 231-232)

Alcohol Use History

Applicant has never been diagnosed with an alcohol use disorder, ordered to attend Alcoholics Anonymous or a similar program, or been medically advised to abstain from alcohol. Since his DWI arrest, he has not consumed alcohol to intoxication and does not intend to do so in the future. He found ASAP "very enlightening," noting the key lesson: "no matter how little you drink, if you drink to a point of . . . getting drunk, then there is an issue there." After learning alcohol can be "just as bad as many other drugs or worse," he decided to change his relationship with alcohol. He initially significantly reduced his consumption, then stopped drinking hard liquor, and has been abstinent at times, including since working in Country B, where it is illegal. At the DOHA hearing, he testified that he had become "an advocate for sobriety" and, after an extended period of abstinence, realized he no longer needed alcohol. He intended to remain abstinent from alcohol. (Answer 1 at 7, 8; GE 2 at 9, 34-39; Tr. 214-215, 220-221)

Whole-Person Concept

During Applicant's military service, he received the [Country A] Campaign Medal with two Campaign Stars, Army Commendation Medal, Army Achievement Medal,

National Defense Service Medal, Global War on Terrorism Service Medal, Army Service Ribbon, and Combat Infantryman Badge. (Answer 1 at 2; AE 3)

Applicant attributed his shorter temper and higher level of alcohol consumption, while in the Army, to his belief that, as an infantryman, he was supposed to act in this manner. He cited his entry into the IT field and a new fitness routine with helping him moderate his alcohol consumption, improve his attitude, and become less dramatic. He testified,

> It's 100 percent my fault [that we are here today]. I mean there are situations where I was 100 percent at fault and then there's situations where I would still say, you know, even 70, 80 percent because like I stated earlier, I can only control my actions and there is [*sic*] things I could have done differently looking back . . . I'm not going to sit here and say . . . the world's out against me . . . I put myself in these situations . . .
>
> I would just say that [this whole experience] taught me. . . [gave] me wisdom . . . Younger, I made poor choices with my friends, finances, obviously, alcohol. But it did allow me to realize the dangers of all these things, and how important it is to do due diligence even with friends, or even family members for that matter . . . I learned a lot . . . many of these things did happen a while ago, and . . . it's just not who I am today at all . . . I am a husband, I take care of my children. The only thing I do is hang out with my wife and my children. I don't go out drinking. There is no partying or none of that. And I take my job with security very seriously . . . all the allegations, it's just not really a . . . picture of who I am today . . . (GE 2 at 9; Tr. 252-255)

Mr. A, Applicant's former supervisor from August 2022 to April 2023, praised his trustworthiness and work performance, rating him number one on a team of four. Mr. A acknowledged Applicant did not disclose "any of the details" of the criminal charges nor did they discuss his "guilt or innocence." Mr. A understood the DWI charge "maybe just got lost in the shuffle" or was never pursued. Mr. A opined Applicant's "prior issues" had "no impact" on his current reliability or his current ability to do his job." (Tr. 38-48)

Ms. B, Applicant's former coworker and now friend, an Army veteran who has known him since February 2019, described him as an "above-board kind of man" with "unquestionable integrity." Ms. B stated, "I did not hesitate to agree when he explained the issue with his security investigation." Mr. C, his former co-worker and then supervisor from April 2017 to March 2018 in Country A, praised his "personal character and professionalism" as "by far the best I've ever had the opportunity to work with." Mr. C described him as "one of the most integral [IT] technicians for the entire [eastern region of Country A]." Mr. D, his former colleague and now friend, who knew him for more than three years, including working closely with him for a year overseas, praised his intelligence and work ethic, describing him as "trustworthy" and "extremely honest." Mr. D stated he "thorough[ly] review[ed] . . . all the details." Mr. E, his friend of 10 years, who

knew him since high school and holds a security clearance as a defense contractor, described him as "a man of Integrity" and "reliable." Neither Mr. A, Ms. B, nor Mr. D specified the nature and extent of their knowledge of the SOR allegations; neither Mr. C nor Mr. E addressed whether they had any knowledge. (AE Y at 1, 2, 3, 5)

Applicant's mother described him as "very responsible," "really trustworthy," and "financially stable." His brother described him as "extremely responsible in every way possible" and a "financial guru," stating Applicant taught him about money management and financial responsibility. His brother opined Applicant: learned from "those mistakes he made many years ago;" has not had "any issues or repeat offenses;" has "obviously grown up and become a lot more responsible;" and is "just a totally different person than who he was." His brother did not attribute any wrongdoing to Applicant besides the DWI, which he testified Applicant "beat . . . in the long run" since it was eventually dismissed. (Tr. 32-33, 90-91, 93-94, 97)

Wife 1. Wife 1 testified she and Applicant met in high school and were engaged when Child 1 was born in January 2013. She explained they separated and eventually divorced because "We were not getting along. We were seeing other people. A list of stuff, you name it. It was bad. We were young . . ." and we both "had a lot of growing up to do." Without addressing specific incidents, Wife 1 stated, "And a lot of the charges that I took out were childish. . . and I wish that I could just take it back, but unfortunately I can't;" Applicant is "not who he was many years ago;" and he maintains a close relationship with Child 1. As of the DOHA Hearing, Wife 1 had "absolutely" no fear of Applicant for her herself or Child 1. (Tr. 54-57, 60-67, 84)

Ms. M. Without addressing specific incidents, Ms. M acknowledged she and Applicant "had a lot of problems" in their prior relationship, which "often led to verbal disagreements that escalated to the point where police were called by neighbors," adding,

> Even though we had many verbal arguments we never physically assaulted one another. When the police were called in the past, the claims were baseless. Many mistakes were made, we were a lot younger and immaturity had a role in our already strained relationship. (AE Z)

Having had a chance to review the SOR, Ms. M stated that "what's on paper is just simply not who [Applicant] is today," describing him as a "great father, friend, and a hard worker for [his children] and family." She added, "all of this happened many years ago;" they have "a healthy co-parenting relationship," and Applicant "has been a consistent male figure for [Ms. M's Child] for the last 10 years." (*Id.*)

Wife 2. Wife 2 works for the same defense contractor as Applicant, supervised him when they worked overseas in Country A from 2018 to 2019, and had known him for five years as of the DOHA Hearing. She indicated he maintained a strong professional reputation. She never observed Applicant commit any violent, physical, or criminal act. She described him as a great father and lauded his trustworthiness and reliability, stating

he is "always talking to his kids and preaching to his kids [and others] about financial literacy," and he pushes her and others to do better for themselves. (AE Y at 4; Tr. 8-27)

Having had a chance to review the SOR, Wife 2 testified she understood there were two assaults, one involving Wife 1 and another involving Ms. M, that were both dismissed. She stated Applicant provided details to her about the September 2015 assault charge involving Wife 1, and that Wife 1 had also "mentioned it" to her, without specifying the particular facts she knew. Wife 2 testified that she and Applicant had a "great relationship" with Wife 1, and that they had no issues since she first met Wife 1 in 2020; and that Applicant now maintains a "very cordial" relationship with Ms. M. Wife 2 opined,

> . . . I just don't think that what [Applicant's] past was is him now . . . If he never even told me, I would [not] have known . . . that was who he was. I honestly feel like he's learned from all of his mistakes . . . I'm just saying . . . that's not who he is to this day. That's not him at all. (Tr. 10-11, 15-22)

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Egan* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." EO 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines 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 and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." EO 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has

not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. *Egan* at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016). Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan* at 531; AG ¶ 2(b).

Analysis

Guideline J: Criminal Conduct

The concern under Guideline J is set out in AG ¶ 30: Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

Having considered all the disqualifying conditions in AG ¶ 31 under Guideline J, I find the following warrant discussion:

> (a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and
>
> (b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

The record evidence and Applicant's admissions establish AG ¶¶ 31(a) and 31(b).

Having considered all the factors set forth in AG ¶ 32 that could mitigate the concerns under Guideline J, I find the following warrant discussion:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(c) no reliable evidence to support that the individual committed the offense; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Given the absence of a conviction or other substantial evidence, I cannot conclude Applicant assaulted Wife 1's friend or that he owned, or was otherwise criminally responsible for, the firearm found in his vehicle. However, the record establishes he cursed loudly while intoxicated on a public beach, disregarding a local ordinance and a police officer's verbal warning; endangered himself and others by driving under the influence of excessive alcohol; and drove with a suspended license. He acknowledged the seriousness of these offenses, accepted full responsibility, and took action to prevent recurrence. The loss of his military career served as a wake-up call, to which he responded by demonstrating a sustained pattern of responsible alcohol use, including periods of abstinence. Without an alcohol use disorder or medical directive to abstain, his sobriety remains a personal choice, not a condition for security eligibility. I conclude his alcohol-and-driving-related offenses resulted from circumstances unlikely to recur and no longer cast doubt on his reliability, trustworthiness, or judgment. Accordingly, I find in Applicant's favor: SOR ¶¶ 1.f through 1.h based on the application of AG ¶¶ 32(a) and 32(d); and SOR ¶¶ 1.j and 1.k based on the application of AG ¶ 32(c).

Conversely, Applicant demonstrated a troubling pattern of abusive behavior toward Wife 1 and Ms. M, for which he accepted no responsibility. He also failed to take accountability for his actions involving disturbing the peace, attempting to purchase a firearm in knowing violation of PO-1, and subsequent failure to appear. Although less serious by comparison, the latter three incidents reflect a similarly problematic pattern of poor judgment and an inability or unwillingness to comply with the law. Having had the opportunity to observe Applicant's demeanor at the DOHA hearing and considering his inconsistent and equivocating statements throughout the security clearance process about these matters, I do not find his assertions of innocence credible.

Three days following the July 13, 2014 incident, Wife 1 submitted a sworn affidavit stating that Applicant injured her by attempting to pull her and their then one-year-old son from a moving vehicle, and also threatened to kill her. At the PO-1 hearing, she testified that the incident caused her to fear for her life, resulting in the issuance of PO-1. In September 2015, Applicant was charged with assaulting Wife 1 in violation of PO-1 and the order violation itself. At the PO-2 hearing, Wife 1 testified that the incident renewed

her fear for her life, resulting in the issuance of PO-2. At the DOHA Hearing, both Applicant and Wife 1 proffered testimony minimizing his culpability and denying his misconduct. However, I find the issuance of two separate two-year protective orders compelling evidence of the abusive and threatening nature of Applicant's actions in both instances. That PO-2 provided for no exceptions, even for visitation with Child 1, further underscores the severity of his misconduct.

On the day of the October 2014 incident, Ms. M reported that Applicant injured her by grabbing her from behind and choking her to unconsciousness for 10 seconds; Applicant reported that he only pushed her, asserting it was in self-defense. At the DOHA Hearing, Applicant claimed he could not recall the incident, challenged both Ms. M's and the officer's accounts, and asserted that choking someone to unconsciousness would necessarily leave visible bruising on the neck. The officer observed bruising on her chest but not on her neck, which could be consistent with either party's account. On the day of the December 2015 incident, Ms. M reported that Applicant injured her by grabbing her, bashing her in the head, and punching her in the face several times; injured Ms. M's Child by throwing him to the ground; and threatened to shoot him. At the DOHA Hearing, Applicant denied culpability for the incident or having engaged in any misconduct toward either of them. Despite claiming memory issues, he testified about his version of events in surprising detail, including which hand he used to open the door. I find the contemporaneous reports and statements more credible than Applicant's testimony and the officers' observations of injuries provide persuasive evidence that Applicant assaulted Ms. M on two occasions.

Applicant has not been criminally charged or involved with law enforcement since December 2015, and his criminal misconduct is limited to a discrete period in his early twenties. The abusive incidents arose in the context of emotionally volatile and immature romantic relationships that have since ended, with all parties accepting some responsibility; on one occasion, Wife 1 was arrested for assaulting him. He now maintains cooperative, stable co-parenting relationships and mutual friendships with both women. However, the fact that Wife 1 and Ms. M may not have been entirely innocent does not diminish Applicant's responsibly for his own actions. Although his assertions of innocence and versions of events were largely corroborated by both women, they must be weighed against the substantial contrary evidence. Moreover, questions of possible bias arise from the financial support he provides both women for their children and his recent purchase of a plane ticket for Ms. M.

Regardless of the absence of criminal convictions or conclusive findings of criminal assault, the record establishes that Applicant engaged in abusive conduct toward Wife 1 and Ms. M on four separate occasions, which alone is security significant. These incidents – viewed together with one another, his other criminal misconduct, and his lack of candor throughout the security clearance process – reveal a pattern of poor judgment and inability or unwillingness to comply with laws that precludes mitigation. Considering the record as a whole, I cannot conclude he has been rehabilitated and have substantial doubts about his reliability, trustworthiness, and judgment. Neither AG ¶ 32(a), 32(c) nor 32(d) are established as to SOR ¶¶ 1.a through 1.e and 1.i.

Guideline E: Personal Conduct

The concern under Guideline E 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.

Having considered all the disqualifying conditions in AG ¶ 16 under Guideline E and find the following warrant discussion:

> (c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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;
>
> (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 . . . ; 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 . . .

Regarding the CU Incident, the record does not establish that Applicant engaged in fraudulent or illegal activity, or that he provided his sister access to his account with knowledge that she would use it to facilitate such activity. The facts alleged in SOR ¶ 2.a do not otherwise support the application of AG ¶ 16(d) or any other disqualifying condition under Guideline E. Accordingly, I find SOR ¶ 2.a in Applicant's favor. Nevertheless, the CU Incident remains relevant as alleged under Guideline F and with respect to evaluating the whole-person concept.

Regarding the nature of Applicant's separation from the Army, neither AG ¶ 16(e) nor any other disqualifying condition under Guideline E is established. The bare allegation

that he was administratively separated for misconduct is not independently disqualifying because it is the consequence of his misconduct. The security concern lies with the misconduct itself, his DWI, which is addressed separately under Guidelines J and E. The record does not establish that the nature of his separation, in and of itself, created a vulnerability to exploitation, manipulation, or duress, as he was forthcoming about it, and his general discharge was upgraded to honorable in March 2020. Accordingly, I find SOR ¶ 2.b in Applicant's favor.

Regardless of my adverse determinations under Guideline J, Applicant's full criminal history raises independent security concerns under Guideline E, as cross-alleged under SOR ¶ 2.c. Specifically, the record evidence and Applicant's admissions establish the general concerns involving questionable judgment and unwillingness to comply with rules and regulations and the following specific disqualifying conditions: AG ¶ 16(c) (as to subparagraphs 1.f through 1.h, 1.j, and 1.k); and AG ¶ 16(e) (as to subparagraphs 1.a through 1.k).

Having considered all the factors set forth in AG ¶ 17 that could mitigate the concerns under Guideline E, I find the following warrant discussion:

> (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
>
> (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and
>
> (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Incorporating my comments under Guideline J, I conclude that Applicant mitigated the personal conduct security concerns raised by the criminal misconduct cross-alleged in SOR ¶ 2.c as to subparagraphs 1.f through 1.h, 1.j, and 1.k, which I find in Applicant's favor based upon the application of AG ¶¶ 17(c), 17(d), and 17(e).

Conversely, consistent with my comments under Guideline J, Applicant failed to mitigate the remaining criminal misconduct cross-alleged in SOR ¶ 2.c. There has not been a sufficient passage of time, nor a meaningful pattern of modified behavior, to conclude Applicant's questionable judgment is unlikely to recur. His continued efforts to minimize the nature and extent of his criminal history (such as by emphasizing the absence of legal consequences rather than accepting responsibility) raise concerns about his susceptibility to exploitation, manipulation, or duress. Considering the record as a whole, I have serious doubts about Applicant's judgment, reliability, and trustworthiness.

None of the mitigating conditions are established with respect to SOR ¶ 2.c as to subparagraphs 1.a through 1.e and 1.i.

Guideline F: Financial Considerations

The 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 information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012)

Having considered all the disqualifying conditions in AG ¶ 19 under Guideline F, I find the following warrant discussion:

> (a) inability to satisfy debts;
>
> (c) a history of not meeting financial obligations;
>
> (d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud, filing deceptive loan statements and other intentional financial breaches of trust; and
>
> (e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators.

Regarding Applicant's history of tax and other debts, the record evidence and Applicant's admissions establish AG ¶¶ 19(a), 19(c), and 19(e).

Regarding the CU Incident, because the record does not establish that Applicant engaged in fraudulent or illegal activity, or that he provided his sister access to his account

with knowledge that she would use it to facilitate such activity, neither AG ¶ 19(d) nor any other disqualifying condition under Guideline F is established. Accordingly, I find SOR ¶ 3.d in Applicant's favor.

I considered each of the factors set forth in AG ¶ 20 that could mitigate the alleged concerns under this guideline and find the following warrant discussion:

> (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;
>
> (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.

Bankruptcy is an acceptable form of debt resolution. Thus, the security concern lies not with Applicant's Chapter 7 bankruptcy itself, but with the surrounding history of indebtedness. He demonstrated a track record of responsible action to address his delinquent taxes and other debts and improve his financial position. He availed himself of the fresh start accorded by his 2015 Chapter 7 bankruptcy discharge, including resolving his federal student loans. He learned methods to avoid future indebtedness through financial counseling and his own efforts to expand his financial literacy.

Well before the issuance of the SOR, Applicant established a reasonable plan to resolve his delinquent taxes and made meaningful progress implementing that plan. His delayed payments for TY 2015, 2016, and 2018 were not motivated by a willful violation of his legal obligations and can reasonably be attributed to circumstances unlikely to recur. Between April 2019 and March 2021, he paid $15,474 to the IRS to resolve his TY 2016 and 2018 tax debts. He engaged the services of a tax professional to ensure timely compliance of any future tax obligations. He currently lives within his means and manages his finances responsibly. I conclude Applicant's finances are under control, not likely to recur, and no longer cast doubt on his reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(c), 20(d), and 20(g) apply to mitigate the Guideline F concerns alleged in SOR ¶¶ 3.a through 3.c.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall common-sense judgment based upon careful consideration of the AG, each of which is to be evaluated in the context of the whole person. In evaluating the relevance of an individual's conduct, an 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 J, E, and F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). I carefully evaluated the evidence and arguments presented in support of mitigation, including Applicant's efforts to reform his behavior and the favorable testimony of his witnesses. However, he has not met his burden to mitigate the pattern of misconduct and poor judgment underlying the Government's concerns. While he claimed to accept full responsibility for his actions, he largely characterized them as mere mistakes from which he has learned. He failed to meaningfully acknowledge or take accountability for significant aspects of his misconduct. His pattern of inconsistent statements and equivocation raises significant doubts about the extent to which he has truly reformed.

Although Applicant was not implicated in any fraudulent or illegal activity related to the CU Incident, he demonstrated poor judgment by failing to exercise reasonable due diligence to assess the legitimacy and legality of his sister's proposal. Assuming he believed he was funding an investment opportunity and had no knowledge of his sister's criminal history, he provided no consistent or reasonable explanation for why he believed she could legitimately grow his funds from the $300 and account access he provided. He further undermined his credibility by demonstrating a troubling lack of candor during Interview #1 and by providing inconsistent and equivocating statements surrounding the CU incident throughout the security clearance process.

Based on the evidence before me, I am unable to conclude that it is clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. After weighing the disqualifying and mitigating conditions under Guidelines J, E, and F, and evaluating all the evidence in the context of the whole person, I conclude that Applicant has mitigated the financial considerations security concerns, but not the criminal or personal conduct security concerns. Accordingly, Applicant has not carried his

burden of showing that it is clearly consistent with the interests of national security to grant him eligibility for access to classified information.

Formal Findings

Formal findings 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 J:	AGAINST APPLICANT
Subparagraphs 1.a – 1.e:	Against Applicant
Subparagraphs 1.f – 1.h:	For Applicant
Subparagraph 1.i:	Against Applicant
Subparagraphs 1.j – 1.k:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a – 2.b:	For Applicant
Subparagraph 2.c:	Against Applicant (except as to subparagraphs 1.f through 1.h, 1.j, and 1.k, which are found for Applicant)
Paragraph 3, Guideline F:	FOR APPLICANT
Subparagraphs 3.a – 3.d:	For Applicant

Conclusion

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

Gina L. Marine
Administrative Judge