DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 23-01260
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: Ronald C. Sykstus, Esq.

08/28/2026

Decision

PRICE, Eric C., Administrative Judge:

This case involves security concerns raised under Guidelines G (Alcohol Consumption), H (Drug Involvement and Substance Misuse), I (Psychological Conditions), and E (Personal Conduct). Security concerns under Guidelines G, H and I are mitigated, but security concerns under Guideline E are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On November 27, 2023, Defense Counterintelligence and Security Agency (DCSA) issued to Applicant a Statement of Reasons (SOR) alleging security concerns under Guidelines G, H, I, and E. The DSCA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016).

Applicant responded to the SOR on December 22, 2023, and requested a hearing before an administrative judge. (Answer) The case was assigned to me on September 10, 2024. On November 22, 2024, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on January 13, 2025.

I convened the hearing as scheduled. Government Exhibits (GE) 1 through GE 5 were admitted in evidence without objection. (Hearing Exhibit (HE) I and HE II) Applicant testified, presented the testimony of six witnesses, and submitted Applicant Exhibit (AE) A through AE M, which were admitted in evidence without objection. (HE IV, HE V) I held the record open, and Applicant timely submitted 11 documents I marked as AE N through AE X, which were admitted in evidence without objection. DOHA received the transcript (Tr.) on January 24, 2025, and the record closed on February 3, 2025. (HE VI)

Administrative Notice

At Department Counsel's request and without objection from Applicant, I have taken administrative notice of various extracts from the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). (HE III; Tr. 9-15) The facts administratively noticed are set out below in my findings of fact.

Findings of Fact

In Applicant's Answer, he admitted all SOR allegations, with explanations. His admissions are incorporated in my findings of fact.

Applicant is a 40-year-old engineer employed by a defense contractor since February 2022. He was previously employed by two other defense contractors under the same contract from February 2017 to February 2022. Applicant served on active duty in the U.S. Navy from April 2007 to December 2013 and received an honorable discharge. He received a bachelor's degree in May 2016. He held a security clearance while in the Navy and has had an active security clearance since 2017. (GE 1-3; AE D; Tr. 8-24, 47-52, 89-93)

Applicant married in June 2012. He has eight-year-old twins. His father and grandmother died in December 2015, and his first child was stillborn in January 2016. (GE 1-3, GE 4 at 17, GE 5; Tr. 16-22, 33-39, 50-51, 95-96)

The SOR alleges alcohol consumption concerns (SOR ¶¶ 1.a through 1.d) and cross-alleges some of those concerns as psychological conditions (SOR ¶ 4.a). The SOR also alleges drug involvement and substance misuse (SOR ¶ 2.a) and personal conduct concerns (SOR ¶¶ 3.a through 3.h). The allegations are grouped and addressed chronologically where practicable below.

Alcohol Consumption, Drug Involvement and Substance Misuse, and Psychological Conditions

SOR ¶ 1.d. "In about 2009, [Applicant] received nonjudicial punishment (NJP) for Drunken Operation of a Vehicle an incident in which [he] crashed into a pole, thereby seriously injuring [himself] and totaling the car [he] had been driving. [He] received reduction in rank from E-4 to E-3, 45 days restriction, and forfeiture of some . . . pay." (SOR; Answer)

Applicant injured his neck, fractured his spine, and broke a few ribs in the crash. He acknowledged making a mistake by operating a vehicle while under the influence of alcohol and said that he learned his lesson. He has had no similar incidents since. He described himself as a good sailor. He was promoted to E-4 within a year of the NJP and promoted to E-5 a year later. (GE 1-3, GE 5 at 2-4; Tr. 34-35, 73) During a March 2023 DCSA-requested psychological evaluation, Applicant reportedly disclosed that "he was required to attend a military treatment program of some type in 2009 following the alcohol related motor vehicle accident[.]" (GE 5 at 4)

SOR ¶ 2.a. "From about 2013 until at least April 2021, [Applicant] abused Adderall and Vyvanse with varying frequency by taking more than [his] Prescribed dosage and combining the drugs with alcohol. In about September 2021, [he] was diagnosed with Other Stimulant Dependence, in Remission."

Applicant was diagnosed with attention deficit disorder (ADD) and attention deficit hyperactivity disorder (ADHD), and prescribed stimulants from the ages of 7-21. (GE 4 at 24) In 2013, his Adderall use escalated "to approximately twice his prescribed dose," and he began to combine Adderall and alcohol. He reported his substance misuse was "related to various daily stressors, and as a response to the anxiety, depression, and PTSD[.]" (GE 4 at 16-17)

Applicant was prescribed Adderall from about 2013 to April 2021, and he was prescribed Vyvanse from February 2019 until about April 2021. (AE O-V, AE W at 18) His prescriptions were for 30 days and specified daily dosages. (GE 4 at 2, 13, 17) He used the medications "as a coping mechanism" in early 2016 while having trouble processing the deaths of his father, grandmother, and stillborn son. From 2017 until April 2021, he often exhausted his medications "1-2 weeks early" because he was taking more than the prescribed dosage. (GE 4 at 13) His use became particularly problematic in 2020. After exhausting his monthly prescribed medications, Applicant increased his alcohol intake to cope with withdrawal symptoms until he could refill the prescriptions. His last reported prescription medication misuse was in April 2021. (Answer; GE 3 at 17, GE 4 at 2-7, 12-14, 20-27, GE 5 at 3, 6; Tr. 33-34, 86-88)

Applicant's Stimulant Use Disorder was assessed as in early remission in August 2021. (GE 4 at 15, 25, 32, GE 5 at 3) His treating psychiatrist and treating therapist determined that his Other Stimulant Dependence and Substance Abuse has been in

remission since December 2022 and October 2022, respectively. (AE O at 8-13, AE S at 16) He has been prescribed Strattera, a non-stimulant, non-habit-forming medication for ADHD since September 2021. (Tr. 71-79, 106, 140; GE 4 at 26, GE 5 at 3; AE O – AE T) Dr. B presumed his history of stimulant use disorder was in remission, and the record evidence supports a conclusion that his Stimulant Use Disorder is in sustained remission because none of the criteria was met at any time during a period of 12 months or more. (GE 5 at 6; HE III at 561-62)

Applicant stated that he would not misuse prescription medication in the future, submitted a statement declaring that he had "no intent to ever use any type of illegal drugs in the future," and agreed to immediate revocation of his security clearance if he tested positive for illegal drugs in the future. (Tr. 77, AE J)

SOR ¶¶ 1.a and 1.b are cross alleged in SOR ¶ 4.a. Applicant admitted that from "late August 2021 until mid-September 2021, [he] received inpatient alcohol and drug treatment [and was] diagnosed with Alcohol Use Disorder, Severe; Other Stimulant Dependence, in remission; [ADD/ADHD], Predominantly Inattentive Presentation; Major Depressive Disorder, Recurrent Episode, Severe; Generalized Anxiety Disorder; and Panic Disorder. [He] then entered [an] intensive outpatient program (IOP), but after about 10 days, [he] left the program against medical advice." (SOR ¶ 1.a; Answer; GE 3 at 6, GE 4 at 14-15, 25-29, GE 5 at 3, 23-32)

Applicant voluntarily entered inpatient treatment in August 2021 because his wife threatened to divorce him due to his excessive drinking and had moved out of their home along with their two children. In the four years prior to entering inpatient treatment, he drank "about one bottle of whiskey every two days [and reported] blackouts being a common experience. During [the month prior to entering the program he] report[ed] being very drunk or in a blackout almost every day." (GE 3 at 5-6, GE 4 at 1, 16-21; Tr. 27-32)

In September 2021, Applicant entered an IOP. After participating in several video conference calls, he told his counselor that he wanted to discontinue the IOP because he felt video conference calls were ineffective, and that he preferred to continue in-person counseling and attending Alcoholics Anonymous (AA) meetings. He abstained from consuming alcohol for about 10 months, attended AA meetings, and followed his counselor's recommendations. He did not know that he left the IOP against medical advice and thought his departure was "more of an agreement." (Answer at 1; GE 3 at 6, GE 4 at 27-32; Tr. 27-34; AE S at 17-20, AE T at 7-14; Tr. 27-38)

In March 2023, Dr. B, a licensed clinical psychologist and board-certified neuropsychologist, evaluated Applicant at the request of the DCSA. (GE 5) Applicant admitted that Dr. B:

> diagnosed [him] with Alcohol Use Disorder, Severe; Major Depressive Disorder, Recurrent, Unspecified; Generalized Anxiety Disorder; Panic Disorder; and a history of Stimulant Dependence[;] noted [his] prognosis is

> guarded, that [he is] at high risk for relapse of the sever alcohol abuse[;] that [his] emotional distress is not fully in remission[;] had concerns about [his] reliability, judgment, stability, and trustworthiness[;] explained that [his] diagnosed conditions could impact [his] conduct with respect to decision-making, as well as following rules and regulations. She recommended that [he] abstain from alcohol and participate in [treatment] for alcohol and substance abuse and emotional distress.

(SOR ¶ 1.b; Answer; GE 5 at 6)

Applicant testified that he was sober and acknowledged past struggles with alcohol. He reported periods of sobriety and periods of moderate alcohol consumption. He last attended an AA meeting in January 2024 but applies the 12-step principles he learned to maintain sobriety. He meditates and exercises daily and attends church weekly. He said that he had not consumed an excessive amount of alcohol or experienced an alcohol-related blackout since September 2021. He saw a therapist monthly from September 2021 to at least January 2025. (Tr. 24-27, 49-50, 77; AE Q – AE T)

Applicant testified that he had abstained from using alcohol for about 40 days every year since 2021 because he would give it up for Lent and otherwise drank moderately. His "goal is to quit completely for [himself] and [his] family, and [he] never intend[s] to or want[s] to cross the excessive line." His alcohol use has never interfered with his work performance, and he has never consumed alcohol at work. He abstained from alcohol from September 2021 to June 2022, in December 2022, December 2023 to March 2024, and from December 2024 until the hearing. He said that he had not consumed alcohol daily since at least September 2021 but would "just drink … two to three times a week, two to three beers at the max[imum]." (Tr. 49-50, 62-67)

Applicant's spouse testified that: "he doesn't really drink that much right now … maybe two or three beers maybe two or three times a week…. It's very moderate. It's just beers, no hard liquor or anything like that." (Tr. 99) Dr. B reported that Applicant "stated that he drinks no more than four to five beers at a time, two or three times per week" which she characterized as "excessive." (GE 5 at 4, 6)

Ms. B, a licensed professional counselor (LPC) counseled Applicant monthly from the fall of 2021 until her retirement in November 2024. She used various therapies to treat his diagnosed disorders, including depression, anxiety, other stimulant dependence and alcohol use disorder. He participated in a counseling or treatment program and made satisfactory progress. He was sober for 9-10 months after completing inpatient treatment in September 2021. "For a long time in total remission of alcohol abuse. I think that he engaged in some alcohol abuse which I would call mild, and typically mild would be two to three drinks." (Tr. 135) His alcohol consumption varied from occasional weekends to sometimes consuming two to three drinks that she considered "mild" alcohol abuse that did not "flag abuse." She did not have access to his treatment plan for alcohol abuse but said treatment plans normally included refraining from alcohol use. She concluded his

alcohol consumption was controlled, diagnosed his alcohol use disorder as in remission, and indicated he met DSM-5 criteria for "in sustained remission." (Tr. 135-142, 150-51; HE III at 491)

Controlled drinking is not a formal diagnostic criterion for alcohol use disorder (AUD) under the DSM-5. "Craving, or a strong desire or urge to use alcohol" is a listed diagnostic criterion; however, this criterion may be met in early and sustained remission. There is no evidence that any of the other 10 criteria listed in the DSM-5 were met for a period of at least 12 months prior to November 2024. Therefore, controlled drinking appears to qualify as a valid measure of harm reduction and Ms. B's diagnosis of "in sustained remission" is consistent with the DSM-5. (HE III at 490-91)

Ms. B also assessed "Remission of Substance Abuse" as early as October 2022. (AE S at 16; Tr. 131-135) She assessed "Major depressive disorder, recurrent, moderate" from September 2021 until modifying her assessment to "Depression, major, recurrent, mild" in October 2023. (AE Q at 7, AE S, AE T) Progress notes show he actively participated in therapy and showed "good insight into what he needs to do to continue to enhance his mental, emotional, and spiritual life. Will continue therapy to maintain stability and progress." (AE R - AE T) She noted his commitment to his personal growth, to his family and to his spiritual faith, that he accepted responsibility for his behaviors, demonstrated good character, and made a lot of personal growth. She said that his conditions were controllable with treatment and that he generally complied with the treatment plan. (AE R – AE T; Tr. 126-145; HE III at 160-64, 222-25, 490-92, 561-62)

Ms. M, an LPC, counseled Applicant in December 2024 and January 2025. Her plan was "to continue therapy to make significant progress and to maintain stability" particularly with respect to "Depression, major, recurrent, mild [and] Anxiety disorder, generalized[.]" (AE Q at 1-6)

Applicant testified that he was treated by a psychiatrist, Dr. R, from about 2016 to 2023. He submitted records showing at least 27 office visits with Dr. R from January 2018 to June 2023. The office visits included medication management, mental status examinations, lab work, urine drug screens, psychotherapy and discussion of treatment plans, but did not explicitly address prognosis. Dr. R's progress notes show Applicant actively participated in therapy and that each visit included review of chronic problems and addressed any new problems. (AE O – AE P, AE V – AE X)

In progress notes from February 3, 2020 to July 21, 2021, Dr. R noted Applicant "denied misusing prescribed medications since the last visit." (AE P at 7, 10, AE V at 1, 4, 7, 10, 12) On April 21, 2021, Dr. R noted Applicant reported he had "stopped taking the stimulant medications. He is noticing more irritability and agitation and more side effects with it than benefits from it. The stimulants are making him more irritable and angry causing marital issues…. [He] reports taking medications as directed and tolerating them well without any significant side effects except for any noted above." (AE P at 10)

In progress notes from December 2022 and June 2023, Dr. R assessed "Remission of substance use, Partial remission of alcohol use." (AE O at 8, 13) He assessed Major depressive disorder, recurrent, moderate; attention deficit disorder; and anxiety disorder, generalized in from April 2021 to June 2023. (AE O at 6-21, AE P)

In October 2023 and May 2024, a Psychiatric Mental Health Nurse Practitioner (PMNHP) affiliated with Dr. R. assessed anxiety disorder, generalized; depression, major, recurrent, mild; and ADD. The PMHNP opined he was "a good candidate for psychiatric treatment and medication management due to symptoms presented…. [Patient] encouraged to abstain from all illicit substances including alcohol…. Will continue supportive psychotherapy at each appointment as needed to manage symptoms and maintain progress. Patient is likely to regress without ongoing therapy." (AE O at 1-6)

Dr. B's diagnostic impressions were based primarily on "available treatment records from [Applicant's August and September 2021 inpatient and outpatient treatment]" as well as her clinical judgment based on the history and observations of the patient. (GE 5 at 6) Dr. B indicated that she "was not successful reaching [his treating] physician or therapist [and] the office secretary … indicated that they were willing to release the records directly to the patient to provide to [Dr. B] if he so chose." Dr. B noted that Applicant had not provided her with requested records after office personnel indicated they were willing to provide the records to him to share with her, and that she did not have VA records that would offer additional insight into his treatment history. (GE 5 at 4-6)

Dr. B's report noted that Applicant denied any history of illicit drug use, but his records indicate he used cocaine in college. She stated it was "evident that he [was] experiencing ongoing emotional distress [and] his treatment motivation is a great deal lower than is typical of individuals being seen in treatment settings[.]" She reported that Applicant "stated that he drinks no more than 4-5 beers at a time, two or three times per week. He did add that he and his spouse [we]re abstaining from alcohol use as a sacrificial gesture during Lenten season. He does not think that he is an alcoholic, and it was more so the medications that caused turmoil in his life. He added, 'I was the problem.'" Dr. B concluded that "his reported level of use (4-5 beers in a night) is excessive [and] continues to meet criteria for alcohol use disorder." (GE 5 at 4, 6)

Applicant testified he was honest with Dr. B and provided "as much detail as possible [and] allowed her to get all [of his] medical records because she's a licensed professional medical provider, and [he trusted] her because normally that's kind of like the confidential agreement between the patient and provider." (Tr. 45) At the time he believed his disclosures to Dr. B and that medical records he authorized for release to Dr. B would remain confidential. He was not sure if he understood the information would be available to DCSA. He first understood the information was not confidential when he received the SOR. (Tr. 31-32, 45-47, 80-82) Applicant's signed authorization and release of medical records held by the clinic where Dr. R and Ms. B practiced was dated March 21, 2023, the day of Dr. B's evaluation. (AE L; GE 5)

I have given more weight to the diagnoses of Applicant's treating providers including his therapists and Dr. R for several reasons. First, Applicant's treatment and counseling from at least 2016 until early 2025 is well documented and continued for more than 14 months after Dr. B's evaluation. Second, Dr. B based her diagnoses, in part, on medical records from 2021 and reported that she was unable to obtain more recent treatment records from Applicant's providers and the VA. Third, Ms. B testified that notwithstanding Dr. B's reported inability to contact Applicant's mental health care providers that she had confirmed Dr. B had not tried to communicate with her, and that Dr. B's rendition of communications with a secretary regarding gaining access to Applicant's records was inconsistent with clinic structure, policy, and practice. (GE 5 at 4-6; Tr. 59-61, 146-150; AE M - AE X))

SOR ¶ 1.c. Applicant admitted that "Notwithstanding [his] Alcohol Use Disorder, Severe, [alleged in SOR ¶¶ 1.b-1.c], [that he was] not attending [AA] or receiving any other alcohol treatment or counseling, and [he] continue[s] to consume alcohol" and explained that he had been receiving counseling since September 2021. His testimony, Ms. B's testimony and extensive documentary evidence show that he received counseling from two LPCs and at least one psychiatrist from at least September 2021 until the hearing. (Answer at 2; Tr. 25-76, 126-153; AE M – AE X) This allegation is resolved for Applicant.

Personal Conduct

SOR ¶¶ 3.a and 3.b. Applicant falsified material facts on Electronic Questionnaires for Investigation Processing (e-QIP) or security clearance application (SCA) he executed in February 2017 and September 2021. In response to the question in "the last seven (7) years have you intentionally engaged in the misuse of prescription drugs, regardless of whether or not the drugs were prescribed for you[?] [He] answered No and thereby deliberately failed to disclose [his] misuse of Adderall (SOR ¶ 3.b) [and Vyvanse (SOR ¶ 3.a) as set forth in [SOR ¶ 2.a.]."

Applicant explained that in February 2017 he was having difficulty processing the loss of his father, grandmother and stillborn son. He said he did not believe he was "intentionally" misusing the prescription medications because he used it as a coping mechanism, and did not use the drugs recreationally, or take prescription medications not prescribed to him. He acknowledged that in hindsight he should have answered the question in the affirmative and noted that he had "not misused prescription drugs since April 2021." (Answer at 3-4; Tr. 33-39, 50-51)

Applicant acknowledged that in September 2021 he failed to provide a truthful answer to this question; stated that he was "feeling scared and vulnerable" because he had just completed mental health care and noted that he had disclosed receiving counseling or treatment because his use of alcohol had caused marital strife. (Answer at 3; Tr. 37-40, 50-51; GE 1 at 37-38)

In April 2018, Applicant told a government background investigator that he had been receiving mental health counseling since December 2013, had been counseled by a psychiatrist since January 2018, and that he did not report the counseling in his SCA because he was not comfortable reporting medical information on a form when he did not know who would have access to it. (GE 3 at 10-11) In November 2021, he told a government background investigator that he had responsibly and occasionally consumed alcoholic beverages in social settings prior to the COVID-19 pandemic. He said that during the pandemic he began consuming liquor daily and distanced himself from others. (GE 3 at 5-6)

SOR ¶¶ 3.c through 3.h. In November 2023, Applicant responded to interrogatories from DOHA. His responses of "no" or "n/a" to questions about whether he had used any controlled substances including cocaine since turning 18 years old (SOR ¶ 3.c); abused prescription medications by taking more than the prescribed amount or mixing the drug with alcohol (SOR ¶ 3.d); and when he last abused Adderall or Vyvanse (SOR ¶¶ 3.e-3.f) were alleged as falsifications and deliberate failures to disclose information set forth in SOR ¶ 2.a. Applicant's responses of "never" to questions about how many times he "blacked out from drinking too much alcohol (or combining alcohol with prescription drugs)" in the previous three years and when was the last time he last "blacked out from drinking too much alcohol (or combining alcohol with prescription drugs)" were alleged as falsifications and deliberate failures to disclose information he had provided to health care providers. (SOR ¶¶ 3.g-3.h)

Applicant admitted the allegations explaining that he felt "fearful, scared and vulnerable at the time of [his] response and did not spend adequate time preparing his response"; that his cocaine use ended in 2006; that he had not misused prescription drugs since April 2021; that he should have disclosed that he blacked out after consuming alcohol about 10 times in 2021 and that he has not blacked out since entering a treatment program in August 2021. He testified consistently with his SOR Answer and emphasized that at the time he completed the interrogatories he was feeling very vulnerable and fearful, scared, and had a mental block. (Answer at 4-6; Tr. 37-49)

Applicant received the interrogatories on November 3, 2023, and submitted his response on November 7, 2023. His response was due on November 23, 2023. (AE A) He testified that he was not thinking clearly when he prepared his responses over a two-hour period at work. He said that he should have taken the time necessary to carefully review the questions and should have requested more time to respond so that he could obtain and review relevant medical records before responding. He testified,

> I don't think I deliberately -- and by that, I mean that after careful consideration -- premeditatedly provided false information. It was more of a snap decision to make it all go away. Because of what happened, I can promise you that nothing like this will ever happen in the future.

(Tr. 47-49)

Character Evidence

Applicant received various awards and medals while in the Navy including a meritorious unit commendation, two Navy/Marine Corps Achievement Medals, a good conduct medal, and service and deployment medals and awards. (AE D-I) He deployed to Kuwait from July 2010 to March 2011. He received an 80% combined disability rating from the Department of Veterans Affairs (VA) in December 2013, and his disability rating was increased to 100% in December 2021. (AE B – AE D; Tr. 19-21)

Applicant's spouse and father-in-law testified about the negative effect that the loss of his stillborn son had on Applicant, shortly after his grandmother and father passed in 2015. They confirmed that he had not abused any controlled substances including prescription medication and had modified his alcohol consumption since completing inpatient alcohol and substance abuse treatment in 2021. They testified that he had not consumed an excessive quantity of alcohol since September 2021, that he had been sober before the hearing, and that his drinking had not exceeded two to three beers, two to three times a week. They testified favorably about his honesty, integrity, trustworthiness, and openness to discussing any matter with them and others. They noted the significant positive impacts his inpatient treatment and therapy have had on Applicant since September 2021. They testified favorably about his commitment to his physical and mental well-being, to his marriage, his kids, his church, and to his job. (Tr. 94-126)

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. *Id.* 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." Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, 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." Exec. Or. 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. *See Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. *See* ISCR Case No. 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. *See* 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 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*, 484 U.S. at 531.

Analysis

Guideline G, Alcohol Consumption

The security concern under this guideline is set out in AG ¶ 21: *"*Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness."

As discussed above, Applicant refuted the allegation in SOR ¶ 1.c. However, his admissions and the evidence submitted at the hearing including medical records and a psychological evaluation establish the following disqualifying conditions under AG ¶ 22:

> (a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other

incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder;

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

(d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;

(e) the failure to follow treatment advice once diagnosed; and

(f) alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder.

The following mitigating conditions under AG ¶ 23 are potentially applicable:

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

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

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

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

AG ¶ 23(a) is established for the conduct alleged in SOR ¶ 1.d. Applicant's only documented alcohol-related incident (Drunken Operation of a Vehicle) occurred in 2009. He has acknowledged his mistake and has not had an alcohol-related incident since. This behavior happened long ago, under circumstances unlikely to recur, and does not cast doubt on his current reliability, trustworthiness, or judgment.

AG ¶¶ 23(b) and 23(d) are not fully established. Applicant has acknowledged his pattern of maladaptive alcohol use, provided evidence of regular participation in therapy

with his counselors and a psychiatrist and has established periods of abstinence and of modified consumption. Although his alcohol use disorder has been controllable with treatment, the evidence is insufficient to conclude that periods of abstinence and periods of consuming two to three or four to five beers a day several times a week demonstrates "ongoing and consistent compliance with the treatment plan" considering evidence that the treatment recommendations included abstaining from alcoholic beverages.

AG ¶ 23(c) is established for the conduct alleged in SOR ¶¶ 1.a and 1.b. Applicant has participated in counseling and treatment programs since at least September 2021, has no previous history of treatment and relapse, and has made satisfactory progress in his treatment as corroborated by his treating mental health care professionals. Although there is some evidence that "he was required to attend a military treatment program of some type in 2009 following the alcohol related motor vehicle accident[,]" the record evidence is insufficient to find a previous history of treatment and relapse.

Guideline H, Drug Involvement and Substance Misuse

The SOR alleges that from 2013 until at least April 2021, Applicant misused prescription medications (Adderall and Vyvanse) by taking more than the prescribed dosage and combining the drugs with alcohol, and that he was Diagnosed with Other Stimulant Dependence, in Remission. 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.

Appellant's admissions and other record evidence establish the following disqualifying conditions under AG ¶ 25 of this guideline;

> (a) any substance misuse (see above definition);
>
> (d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder;
>
> (e) failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional; and

(f) any illegal drug use while granted access to classified information or holding a sensitive position [i.e. a position that requires a security clearance].

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;

(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; and

(d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

AG ¶¶ 26(a), 26(b) and 26(d) are established. Applicant acknowledged his substance misuse and has not misused prescription medication since at least April 2021. He has been prescribed a non-habit forming and low risk for abuse medication to treat his ADD since September 2021. He completed inpatient drug treatment in September 2021, and although he failed to complete a follow-on intensive outpatient program, there has been no recurrence of abuse, and he has received a favorable prognosis from his care providers. His mental health providers determined that his Other Stimulant Dependence and Substance Abuse was in early remission in August 2021 and has been in remission since at least December 2022. He also submitted a signed statement of intent to abstain from all drug involvement and substance misuse and acknowledged that future substance misuse is grounds for revocation of his security clearance. His substance misuse is unlikely to recur and no longer casts doubt on his reliability, trustworthiness, or good judgment.

Guideline I, Psychological Conditions

The concern under this guideline is set out in AG ¶ 27:

> Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

Applicant's admissions, medical records, and a psychological report establish the following disqualifying conditions under AG ¶ 28:

> (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
>
> (c) voluntary or involuntary inpatient hospitalization; and
>
> (d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

The following mitigating conditions under AG ¶ 29 are potentially applicable:

> (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
>
> (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;
>
> (c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

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

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

AG ¶ 29(a) is not fully established for all diagnosed disorders cross-alleged in SOR ¶ 4.a. AG ¶ 29(a) is established for Applicant's depression, anxiety, panic disorder, ADHD, and stimulant dependence because these conditions are readily controllable with treatment and Applicant has demonstrated ongoing and consistent compliance with the treatment plan. AG ¶ 29(a) is not fully established for his alcohol use disorder. Although his alcohol use disorder has been controllable with treatment, the evidence is insufficient to conclude that periods of abstinence and periods of modified consumption (two to three or four to five beers several times a week) demonstrates "ongoing and consistent compliance with the treatment plan" considering evidence that the treatment plan included abstaining from alcoholic beverages.

AG ¶ 29(b) is established for all diagnosed disorders cross-alleged in SOR ¶ 4.a. Applicant voluntarily entered and continues to receive counseling and treatment for conditions amenable to treatment with a favorable prognosis by qualified mental health professionals for all diagnosed disorders. Notably, his treating psychiatrist and LPC assessed that his alcohol use disorder was in "partial" or "sustained remission" in June 2023 and November 2024, respectively.

AG ¶ 29(c) is not established because Dr. B found that Applicant was at high risk for relapse of severe alcohol use disorder and that his emotional distress is not fully in remission.

AG ¶¶ 29(d) and 29(e) are not established. There is insufficient evidence to conclude Applicant has a low probability of recurrence or exacerbation, that his mental health conditions were temporary, or that there is no indication of a current problem. Although Applicant continues to benefit from counseling, psychotherapy and medication management, his medical records show that continued therapy is necessary to maintain stability and progress.

Guideline E, Personal Conduct

The security concern under this guideline is set out in AG ¶ 15: "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. . . ."

Applicant's admissions and other record evidence establish that he falsified material facts and deliberately failed to disclose: (1) his misuse of prescription medications in his February 2017 SCA, September 2021 SCA, and in his November 2023

Response to Interrogatories; and (2) his use of cocaine and history of alcohol-related blackouts in his November 2023 Response to Interrogatories. The following disqualifying conditions under AG ¶ 16 are established:

> (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; and
>
> (b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative.

Conduct not alleged in the SOR, including Applicant's decision to intentionally lie about his prescription drug misuse and alcohol abuse because he thought his disclosures to medical personnel were confidential and would be unknown to DCSA, and his incomplete and misleading statements to background investigators in April 2018 and November 2021 were not considered for disqualifying purposes. However, this conduct may be considered for the following five purposes: (a) to assess his credibility; (b) to evaluate his evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether he has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) for whole-person analysis. *See* ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) (citations omitted).

The following mitigating conditions under AG ¶ 17 are potentially applicable:

> (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
>
> (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.

AG ¶ 17(a) is not established. Applicant's March 2023 admissions to a DCSA-approved psychologist that he had abused alcohol, misused prescription medications,

mixed prescription medications with alcohol, and experienced blackouts were not prompt or good-faith efforts to correct his previous falsifications because he believed his disclosures were confidential. Likewise, his December 2023 admissions regarding falsifying material facts in his November 2023 response to interrogatories were not good-faith efforts to correct his prior falsifications before being confronted with the facts because his admissions were in his Answer to the SOR.

AG ¶ 17(c) is not established. Applicant's falsifications and deliberate failures to disclose relevant information in two SCAs and in responses to interrogatories were not minor, because they strike at the heart of the security clearance process. *See* ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011). His falsifications were part of a pattern of deceit from at least February 2017 to November 2023. Although he attributes his failure to disclose his misuse of prescription medications in February 2017 to stress following the deaths of his father, grandmother and stillborn son, he acknowledges that each subsequent falsification and deliberate failure to disclose relevant information was because he feared the truth would negatively impact his security clearance eligibility and his employment. The evidence is insufficient to conclude the conduct is unlikely to recur. His conduct continues to cast doubt on his reliability, trustworthiness, and judgment.

AG ¶ 17(d) is not fully established. Applicant acknowledged his falsifications in his December 2023 Answer to the SOR and at the hearing. He has successfully participated in counseling to address his substance misuse, alcohol abuse, and stress issues, has not abused prescription medications since April 2021, and has established a clear pattern of modified alcohol consumption or abstinence since September 2021. He has taken additional positive steps to manage stressors including counseling, prayer, meditation, and exercise, and his spouse and family are very supportive. However, given his more than six-year pattern of deceit and conduct not alleged in the SOR and discussed above, the evidence is insufficient to support a conclusion that such behavior is unlikely to recur.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. 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 G, H, I, and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I have considered Applicant's age, education, work history, military history, security clearance history, his spouse's testimony, his counselor's testimony, and other character evidence. I also considered all available medical records and the April 2023 psychological report.

Applicant was candid and sincere at the hearing. He was enthusiastic about the changes in his life since receiving inpatient alcohol and drug treatment in 2021 and through consistent counseling and therapy. He has dedicated himself to his family, his job, and to his personal well-being.

However, Applicant's decision to intentionally lie about his prescription drug misuse and alcohol abuse over a period of more than six years, in part, because he thought his disclosures to medical personnel were confidential and would be unknown to DCSA compromised the integrity of the security clearance process. His misleading statements to government investigators in April 2018 and November 2021, and his various explanations for lying about information he believed to be detrimental to his security clearance eligibility raise additional concerns about his reliability and trustworthiness, and about the likelihood of recurrence.

"Once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance." ISCR Case No. 09-01652 at 3 (App. Bd. Aug. 8, 2011), *citing Dorfmont v. Brown,* 913 F.2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). Applicant has not overcome that presumption.

After weighing the disqualifying and mitigating conditions under Guidelines G, H, I, and E, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns under Guidelines G, H and I, but he has not mitigated Guideline E security concerns.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline G (Alcohol Consumption):	FOR APPLICANT
Subparagraphs 1.a—1.d:	For Applicant
Paragraph 2, Guideline H, (Substance misuse):	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Paragraph 3, Guideline E (Personal Conduct):	AGAINST APPLICANT
Subparagraphs 3.a—3.h:	Against Applicant
Paragraph 4, Guideline I, (Psychological Conditions):	FOR APPLICANT
Subparagraph 4.a:	For 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. Clearance is denied.

Eric C. Price
Administrative Judge