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**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of Personnel Security Hearing)
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Filing Date: December 11, 2013) Case No.: PSH-13-0131
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Issued: March 20, 2014

Administrative Judge Decision

Shiwali G. Patel, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as “the individual”) for access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled “Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.”¹ For the reasons set forth below, I conclude that the DOE should not restore the individual’s access authorization.²

I. BACKGROUND

The individual is an employee of a DOE contractor and holds a suspended access authorization. After the individual revealed information during a routine background investigation that raised concerns regarding the individual’s alcohol consumption, a Local Security Office (LSO) summoned the individual for an interview (PSI) with a personnel security specialist on June 18, 2013. Exhibits 3 and 8. When the LSO could not resolve the potential disqualifying information, it referred the individual to a psychologist (“DOE psychologist”) for an agency-sponsored evaluation. The DOE psychologist prepared a written report, setting forth the results of that evaluation, and sent

¹ An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will be referred to in this Decision as access authorization or a security clearance.

² Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.energy.gov/oha>.

it to the LSO. Exhibit 6. Based on this report and the rest of the individual's personnel security file, the LSO determined that derogatory information existed that cast into doubt the individual's eligibility for access authorization. Exhibit 1. The LSO informed the individual of this determination in a letter that set forth the DOE's security concerns and the reasons for those concerns. Exhibit 1 (Notification Letter). The Notification Letter also informed the individual that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt concerning his eligibility for an access authorization.

The individual requested a hearing in this matter. The LSO forwarded this request to OHA, and the OHA Director appointed me the Administrative Judge³ in this case. The DOE introduced nine exhibits into the record of this proceeding, and called the DOE psychologist as a witness. The individual introduced 29 exhibits, and presented the testimony of four witnesses, in addition to his own testimony. Furthermore, the individual filed three post-hearing submissions.

II. REGULATORY STANDARDS

The criteria for determining eligibility for security clearances set forth at 10 C.F.R. Part 710 dictate that in these proceedings, an Administrative Judge must undertake a careful review of all of the relevant facts and circumstances, and make a "common-sense judgment . . . after consideration of all relevant information." 10 C.F.R. § 710.7(a). I must therefore consider all information, favorable and unfavorable, that has a bearing on the question of whether granting the individual a security clearance would compromise national security concerns. Specifically, the regulations compel me to consider the nature, extent, and seriousness of the individual's conduct; the circumstances surrounding the conduct; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the likelihood of continuation or recurrence of the conduct; and any other relevant and material factors. 10 C.F.R. § 710.7(c).

A DOE administrative proceeding under 10 C.F.R. Part 710 is "for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization." 10 C.F.R. § 710.21(b)(6). Once the DOE has made a showing of derogatory information raising security concerns, the burden is on the individual to produce evidence sufficient to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The regulations further instruct me to resolve any doubts concerning the individual's eligibility for access authorization in favor of the national security. 10 C.F.R. § 710.7(a).

III. NOTIFICATION LETTER AND ASSOCIATED SECURITY CONCERNS

The Notification Letter cited derogatory information within the purview of two potentially disqualifying criteria set forth in the security regulations at 10 C.F.R. § 710.8, subsections (h) and (j)

³ Effective October 1, 2013, the titles of attorneys in the Office of Hearings and Appeals (OHA) changed from Hearing Officer to Administrative Judge. *See* 78 Fed. Reg. 52389 (Aug. 23, 2013). The title change was undertaken to bring OHA Hearing Officers in line with the title used at other federal agencies for officials performing identical or similar adjudicatory work. *See Personnel Security Hearing*, Case No. PSH-13-0114 at 1, n.1.

(hereinafter referred to as Criteria H and J, respectively). Exhibit 1.⁴ Under both criteria, the LSO cited the individual's (1) diagnosis by the DOE psychologist of Alcohol Abuse Disorder under the DSM-IV-TR, or Alcohol Use Disorder under the DSM-5,⁵ without adequate evidence of rehabilitation or reformation, and which causes or may cause a significant defect in judgment and reliability; (2) admission that he consumes alcohol on most Friday and Saturday nights, typically consuming two beers and one to three White Russian mixed drinks within a two to three hour period; (3) admission that he has been intoxicated six to eight times from 2010 to the present by consuming eight to ten alcoholic beverages; (4) admission that he drove while intoxicated three times from 2010 to 2013; (5) admission that he abuses alcohol on the weekends; (6) admission during his PSI that he drove while intoxicated 20 to 30 times in his life, and to the DOE psychologist that he drove while intoxicated most times from 1974 through 1999; and (7) arrest in July 1974, for contributing to the delinquency of a minor by serving alcohol at a party with underage individuals. *Id.*

I find that this information adequately justifies the DOE's invocation of Criteria J and H, as it raises significant security concerns related to the individual's excessive alcohol consumption and related mental condition, which often leads to questionable judgment or the failure to control impulses, and calls into question the individual's future reliability and trustworthiness. *See Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, The White House (December 19, 2005) (Adjudicative Guidelines) at ¶¶ 21, 27 (Guidelines G and I).

IV. FINDINGS OF FACT

The individual is 57 years old and has worked for a DOE contractor for approximately 38 years. Tr. at 121. He began consuming alcohol when he was 16 to 17 years old and when he was 18 years old, he was arrested for contributing to the delinquency of a minor for serving beer at a party that was attended by minors. Ex. 6 at 7. Those charges were dismissed several days later for lack of evidence. *Id.* From 1974 to 1999, on most Friday and Saturday nights, the individual consumed six to eight alcohol beverages during a four to five hour time period, and at times, he drank to intoxication. *Id.* at 3. From the late 1990s through 2009, the individual's consumption of alcohol decreased as he could not afford to regularly go out; yet, during this period, he consumed alcohol at gatherings with his family or friends. *Id.* at 4.

In 2010, the individual's consumption of alcohol increased as he was going through a divorce. *Id.* Since then, the individual has been intoxicated about six to eight times, after consuming eight to ten alcoholic beverages.⁶ On occasion, he drove while intoxicated. Exhibit 1. During most Friday and

⁴ Criterion H relates to information indicating that the individual has an "illness or mental condition of a nature which, in the opinion of a psychologist or licensed clinical psychologist, causes or may cause, a significant defect in judgment or reliability." 10 C.F.R. § 710.8(h). Under Criterion J, information is derogatory if it indicates that the individual has "[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychologist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse." 10 C.F.R. § 710.8(j).

⁵ In her report, the DOE psychologist stated that the corresponding DSM-IV-TR (*Diagnostic and Statistical Manual for the American Psychiatric Association IVth Edition TR*) diagnosis is Alcohol Abuse.

⁶ The individual's only disagreement with the DOE psychologist's report is her belief that the individual consumed more alcohol than he reported to her. In explaining the discrepancy between his background investigation statement that he was intoxicated once a month, and his PSI statement that he was intoxicated six to eight times in the last three years, he

Saturday nights the individual often consumed two beers and one or two White Russians at a restaurant with his friends. Exhibit 6 at 4. Sometimes after the restaurant, they would also go to a dance club, where the individual would have an additional two to three drinks. *Id.* On June 15, 2013, the individual consumed at least four beers and two White Russians and drove home that night. *Id.* In early August, he consumed eight or nine drinks in one night. *Id.* The individual last consumed alcohol on November 2, 2013, having two drinks, which was almost a week before he received the Notification Letter from the DOE. Exhibit B.

V. ANALYSIS

The individual does not dispute the DOE psychologist's opinion that has abused alcohol and that he meets the criteria for Alcohol Abuse pursuant to the DSM-IV-TR or Alcohol Use Disorder pursuant to DSM-V. Tr. at 129. The focus of my analysis, therefore, is on whether the individual has achieved rehabilitation or reformation.

A. Lay Testimony and Documentary Evidence

At the hearing, the individual presented the testimony of his supervisor, his colleague and one of his daughters. His supervisor has known him since 2008, and stated that he did not have any concerns regarding the individual's alcohol consumption, and that he has good attendance at work and is very reliable. Tr. at 58-59. The supervisor further testified that the individual exercises good judgment and that he is not aware of any disciplinary issues involving the individual. Tr. at 67.

The individual's colleague has known him for 21 years. Tr. at 68. He has socialized with the individual outside of work at each other's parties and homes. Tr. at 69. He testified that he never saw the individual consume any alcohol, nor appear to work hungover or smelling of alcohol. Tr. at 70-71. The colleague also testified that the individual is not susceptible to blackmail and that he is dependable, reliable, follows the rules and regulations, and exercises good judgment. Tr. at 73-75.

The individual's daughter testified that she has lived with her father since January 2011, and that she relies on him for care and support as she is disabled from a car accident that occurred in 2003. Tr. at 81; Exhibit G. At the time of her accident, she had a two-month old daughter, whom her parents helped take care of. Tr. at 82. She testified that she has never been concerned with her father's alcohol consumption and has not observed him drink too much. Tr. at 83, 91. She stated that when she was younger, she and her sister participated in extracurricular activities and their father's alcohol consumption did not impair his ability to support them. Tr. at 84. The individual's daughter has not seen him consume alcohol since November 2, 2013, and she believes that if her father resumed drinking alcohol he would tell her or she would notice that he drank through the appearance of his eyes. Tr. at 89, 102. She believes that her father is very honest and that he will maintain abstinence for six months because he will follow his doctor's orders and is determined to not compromise his job. Tr. at 94, 104.

contends that he often overstates things and that after realizing his misstatement during his background investigation, he corrected his statement on how many times he was intoxicated during his PSI. Tr. at 129.

Subsequently, the individual testified. He testified that he has never had any issues at work regarding his alcohol consumption and that no one in his life has ever expressed concerns about his drinking. Tr. at 113, 120. The individual stated that after he met with the DOE psychologist in August 2013, he reduced the amount of alcohol he consumed to two drinks, and began marking on a calendar when he consumed alcohol and how much he consumed. Tr. at 108. He last consumed alcohol on November 2, 2013 (and has not purchased alcohol since then) and he intends to abstain from alcohol for at least six months. Tr. at 105-118; 127. On November 2, 2013, he drank two White Russians during a three-hour period with a meal, and he drove home afterwards. Tr. at 145-146.

The individual explained that he has learned about the physical effects of consuming alcohol from his therapist. Tr. at 118. With his therapist, he is learning how much alcohol he can consume without impairing his judgment. Tr. at 125. He currently goes to Alcoholics Anonymous (AA) once a week and because he is not an alcoholic, he does not have an AA sponsor and is not participating in the 12-step program. Tr. at 123. However, he attends AA to learn from the experiences of others about the negative effects of alcohol and consequences for an alcoholic. Tr. at 121. Moreover, he explained that he never consumed alcohol to cope with stress, but just to loosen up in social settings. Tr. at 128. In fact, when dealing with stress, he usually fixes things around his house. Tr. at 119.

The individual testified that it has not been difficult for him to abstain from alcohol, even when he is around people who are drinking alcohol. Tr. at 114. Indeed, he still goes to the restaurant where he used to consume alcohol. There, the bartender and servers know that he is not consuming alcohol, and so they serve him tea instead. Tr. at 114. He states that he still has fun at that restaurant and is not tempted to drink alcohol. Tr. at 114-115. Furthermore, during the holidays, the individual went to a friend's party where alcohol was served, but did not have any desire to drink. Tr. at 127. He has been open with his friends about his alcohol issues and abstinence, and they have been very supportive of him. Tr. at 116; 128. The individual testified that if he consumes alcohol again after being abstinent for six months, he would limit himself to two drinks in a 24-hour time period and only drink on the weekends. Tr. at 106; 146. He based the drink maximum on his therapist's and family doctor's recommendations that two drinks would be a healthy consumption of alcohol for him. Tr. at 106.

The individual submitted the negative results of several blood alcohol tests, which he asserts identify the presence of any metabolized form of alcohol for the last 80 hours. Tr. at 137. These negative test results were submitted for December 20, 2013, January 4, 2014, January 20, 2014, and February 4, 2014. Exhibits N, Z, and CC. After the hearing, the individual submitted additional negative alcohol test results for February 21, 2014, and March 5, 2014.⁷ He stated that he is willing to continue undergoing random blood alcohol tests twice a month throughout the six months of his abstinence. Tr. at 146. The individual also provided AA meeting verification forms indicating that from November 12, 2013 through January 14, 2014, he attended 21 AA meetings. Exhibit M.

The individual submitted a calendar from September 2013 through November 2013, wherein he documented when and how much he consumed alcohol. Exhibit B. The calendar indicates that the

⁷ The record was closed on March 10, 2014.

individual last consumed alcohol on November 2, 2013, having two drinks, and that he consumed three drinks on September 7, 2013, two drinks on September 27, 2013, three drinks on October 4, 2013, two drinks on October 11, 2013 and two drinks on November 1, 2013. Exhibit B. He also submitted a note from his physician that he is taking the following medications: one or two tablets of 750 mg of Methocarbamol every eight hours as needed, 200 mg of Sertraline daily, and five mg of VESicare daily. Exhibit AA. Based on his medications, the individual's physician recommended that he consume a maximum of two drinks per night. Exhibit AA.

In addition, the individual submitted written statements from both of his daughters and three co-workers who made positive remarks about the individual's character and reliability. Exhibits C-G. He also provided a statement from the bartender at the restaurant that he frequents, who stated that she usually sees the individual about once or twice during the week, which is during the weekends, that he "always eats a full dinner," "usually has an iced tea or a Miller Lite draft or two. After dinner he might have 1-2 white Russians," and he stays for at least two to three hours. Exhibit H. The bartender has never seen the individual intoxicated. *Id.* Another person who has known the individual for approximately three years submitted a written statement, asserting that he has "never seen [the individual] consume more than two drinks ever, and this is before he orders a full meal." Exhibit I. The individual also submitted a statement from a friend who is going on a cruise with him in March, stating that the individual informed her that he will not consume alcohol during that trip. Exhibit Y. Additionally, the individual provided documentation highlighting his volunteer and community service work and the recognition that he has received for it. Exhibits W, X, BB.

B. Expert Testimony

The individual's therapist testified as to his treatment, diagnosis and prognosis. Tr. at 12. The therapist agreed with the DOE psychologist's evaluation and diagnosis of the individual as having depression, generalized anxiety, and suffering from alcohol abuse. Tr. at 15. In regards to the severity of the individual's alcohol abuse, the therapist stated that based on his drinking habits, it was moderate to severe. Tr. at 39. In regards to the individual's initial minimization of the effects of alcohol on him, the therapist stated that they have addressed that issue and now the individual does not minimize the effects of alcohol. Tr. at 30. Hence, while the individual was not previously aware of how serious his drinking problem was, he is now aware of it and has the ability to exercise self-control over his drinking. Tr. at 40.

The therapist first met with the individual on November 25, 2013. Tr. at 13. He explained that they have discussed the chemistry of addiction, effects of alcohol on the brain and judgment, and how the amount of alcohol he consumes relates to blood alcohol content. Tr. at 15. He stated that the individual has been very receptive towards treatment and attended over 20 AA meetings, even though he is not an alcoholic. Tr. At 17-18. While the individual is not an alcoholic, the therapist recommended that the individual attend AA meetings for two reasons: 1) "to show that he was completely dedicated to maintaining abstinence from drinking alcohol for a period of six months," and 2) "to increase his awareness and understanding of the risk factors involved in irresponsible and excessive drinking." *See* Therapist's Letter, Feb. 9, 2014. Accordingly, the therapist did not believe that the individual's participation in a 12-step program would be appropriate as the individual is not "powerless" over alcohol. *Id.* For that same reason, the therapist did not believe that the individual

needed to have an AA sponsor, explaining that AA typically “will not provide a sponsor to a non-alcoholic although he would be permitted to attend AA.” *Id.* Hence, the therapist stated that the individual is in compliance with his expectations for his treatment. *Id.*

In January, the therapist met with the individual three times and he intends to continue meeting with the individual on a weekly basis. Tr. at 28. He plans to see the individual for at least six months, but believes that they will continue meeting afterwards for an additional three months. Tr. at 50. He will then continue to see the individual monthly for several months in order to follow up with him. Tr. at 50. He described the individual as highly motivated, and that he does not make excuses and takes responsibility. Tr. at 18.

The therapist agrees with the recommendation that the individual not consume more than two alcoholic beverages a day. Tr. at 18. He stated that the individual’s prognosis is very good and he believes that the individual will not relapse because he is not an alcoholic and is not physically dependent on alcohol. Tr. at 19. He stated that as the individual continues to see him, his risk of relapse will go down, but they will still discuss relapse prevention during their sessions. Tr. at 51. The therapist explained that the individual has a deep commitment and “a core value of personal integrity with regard to his job and the security that goes with that commitment that he has made.” Tr. at 21. Therefore, he strongly believes that the individual will remain abstinent for six months as he also has been very consistent with what he has told the therapist, has been very open and is responsible. Tr. at 41. For this reason, the therapist also believes that the individual will be able to limit himself to the two-drink maximum after being abstinent for six months. Tr. at 21

Moreover, the therapist does not believe that the individual’s judgment and reliability are impaired by his diagnosis of alcohol abuse, or that his depression or anxiety would also impair his judgment. Tr. at 21, 41. He stated that the individual has not used alcohol to cope with stress as he does not consume alcohol at home or during the week, explaining that during those times, his stress level would be the highest because he would be working and maintaining his responsibilities regarding his family. Tr. at 27. Finally, the therapist testified that the individual has demonstrated adequate evidence of rehabilitation and reformation, stating that at the time of the hearing, he believes that the individual can handle drinking responsibly. Tr. at 46. However, he still recommends that the individual remain abstinent for six months in order to evince his commitment and ability to maintain sobriety. Tr. at 47.

The DOE psychologist testified that she diagnosed the individual with alcohol abuse under DSM-IV, and generalized anxiety disorder and persistent depressive disorder.⁸ Tr. at 140. While the individual did not complete his six months of abstinence by the time of the hearing, the DOE psychologist stated that this is a circumstance that warrants an exception to the six-month duration recommendation. Tr. at 148. She listed the risk factors for risk of relapse that were in the individual’s favor: 1) he has no physical cravings for alcohol; 2) he has strong social support for his intention to stay abstinent; 3) while he has co-occurring anxiety and depressive disorders, they are not severe and are well managed with medication and psychotherapy; 4) his alcohol use disorder is mild; 5) he does not have any neuropsychological deficits from his alcohol use; 6) he has good and healthy

⁸ The Summary of Security Concerns only lists the individual’s alcohol abuse as the illness or mental conditions that causes, or may cause, a significant defect in judgment or reliability.

coping skills that are improving through therapy; and 7) he is motivated to change, respects the advice of the experts regarding his condition and treatment, and does not want to compromise his job. Tr. at 149-156. She stated that the following risk factors do not go in the individual's favor with regards to his risk of relapse: 1) his abuse of alcohol was chronic as it lasted for many years and 2) he has a family member who has an alcohol use disorder.⁹ Tr. at 151, 154. However, she concluded that these two negative risk factors do not outweigh the positive factors, and thus, she made an exception to the recommendation that the individual be abstinent for six months in order to be rehabilitated. Tr. at 155.

The DOE psychologist stated the she is also very persuaded by the individual's willingness to continue with the random alcohol screenings, which confirms that he will continue with six months of abstinence. Tr. at 155. Hence, while he was three months shy of being abstinent for six months, the DOE psychologist concluded that the individual presented adequate evidence about his rehabilitation or reformation. Tr. at 158. She stated that even with two drinks, the individual will be well below the maximum amount of drinking for healthy consumption. Tr. at 156-157. Moreover, the DOE psychologist was not concerned that the individual drank on November 2, 2013, before driving because he consumed two mixed drinks over three hours with food, and because of his physical build. Tr. at 171-172.

Additionally, while the individual is not participating in 12-steps nor has an AA sponsor, the DOE psychologist maintains that the individual has presented evidence of his rehabilitation or reformation because he is not an alcoholic and he has complied with his therapist's recommendations for treatment. Tr. at 158; Therapist's Letter, Feb. 9, 2014. Moreover, she concluded that the individual's prognosis is very good and that his risk of relapse is very low. Tr. at 161. She would consider a relapse to be an unhealthy use of alcohol, such as three or more drinks at a time, or anything that approaches 14 drinks per week. Tr. at 161.

C. Evaluation of Evidence

Taking into account what steps the individual has taken and where he stands as of the date of the hearing, I must assess the factor at the heart of the security concern in this case going forward, that is, the likelihood of recurrence, specifically, whether the individual will return to abuse alcohol in the future. Adjudicative Guidelines at ¶ 23(a). I commend the individual for acknowledging his issues with alcohol, participating in therapy, having attended over 20 AA meetings, and seeking the support of his family and friends. Adjudicative Guidelines at ¶ 23(b). He has also shown an appreciation for the physical effects of alcohol on him, recognizing his limits in consuming alcohol and maintaining that he will not consume more than two drinks should he resume drinking alcohol. *Id.* at ¶ 23(c). However, I still have concerns that he not yet established a pattern of responsible drinking or of abstinence, as he promised, for six months, as of the date of the hearing.

The DOE psychologist stated that while the individual was three months shy of the recommended period of abstinence, he was still at a low risk of relapse, citing his lack of physical cravings for alcohol, support system, healthy coping skills and motivation to change. His therapist, however, still

⁹ The individual's maternal grandfather drank heavily. Exhibit 6 at 8.

wanted the individual to maintain sobriety for six months, stating that three months was “foundational proof,” but six months provides adequate evidence of the individual’s ability to remain abstinent. Although OHA Administrative Judges generally accord deference to the opinions of mental health professionals regarding the issue of rehabilitation and reformation of individuals with mental health conditions, the question of whether evidence of rehabilitation and reformation is adequate to warrant granting a security clearance is “a common-sense determination to be made by DOE officials, including the [Administrative Judge], not by a consultant psychologist or other outside experts.” See *Personnel Security Hearing*, Case No. PSH-12-0100 (2012); *Personnel Security Hearing*, Case No. TSO-1057 (2011); *Personnel Security Hearing*, Case No. TSO-0209 (2006) (citing 10 C.F.R. 710.7(c) (“question concerning an individual’s eligibility for access authorization” is to be decided by “DOE officials involved in the decision-making process. . . .”)); see also *Personnel Security Hearing*, Case No. TSO-0803 (2010) (hearing officer “need not accord deference to [DOE mental health expert’s] opinion as to what level of risk is acceptable in order to grant or restore a security clearance”).

Thus, despite the testimony of the DOE psychologist, I cannot find that the individual has provided *sufficient* evidence of rehabilitation and reformation as he was abstinent for only three months at the time of the hearing. *Id.* at ¶ 23(d); See *Personnel Security Hearing*, Case No. TSO-0742 (2009) (individual who was diagnosed with alcohol abuse and abstinent for three months did not mitigate concerns as three months of abstinence and treatment was insufficient for demonstrating adequate evidence of rehabilitation and reformation, despite the individual’s commitment to his treatment program); *Personnel Security Hearing*, Case No. TSO-0494 (2007) (three months of abstinence insufficient to mitigate concerns with regards to the individual’s alcohol-related disorder not otherwise specified). Specifically, the individual still frequents the same restaurant where his alcohol consumption became a problem, and while he maintains that he has the support of his friends to remain abstinent, I am concerned that he will become tempted to drink as he is not physically removed from the presence of alcohol and of consumption. Furthermore, while the DOE psychologist characterized the individual’s alcohol abuse as mild, his therapist, who has met with him on more occasions and is undergoing therapy with him, testified that his alcohol abuse was moderate to severe, thereby also leading me to conclude that three months of abstinence is simply insufficient for demonstrating that he has become fully rehabilitated.¹⁰ Finally, I believe that the individual’s therapist provided insight when he opined that three months is “foundational proof” but six months provides adequate evidence that the individual will remain abstinent in the future. In the end, it is my common sense judgment that three months is simply not sufficient time to demonstrate adequate evidence of rehabilitation or reformation from alcohol abuse in this case.¹¹

¹⁰ While the Adjudicative Guidelines require that an individual with alcohol abuse demonstrate a pattern responsible use, see Adjudicative Guidelines at ¶ 23(b), I still cannot conclude that the individual has established such a pattern. Although the individual reduced his alcohol consumption after meeting with the DOE psychologist last summer, he only began following the recommendation to consume a maximum of two alcohol beverages on October 11, 2013. That is just four months prior to the hearing, and in such a short amount of time, I cannot conclude that the individual has established a pattern of responsible use.

¹¹ Even if I were to accept the individual’s post-hearing submissions of negative alcohol tests on February 21, 2014, and March 5, 2014, as evidence of his continuing sobriety, my conclusion on his rehabilitation and reformation would not change.

Hence, considering my doubts on whether the individual sufficiently established reformation or rehabilitation as of the time of the hearing, I must conclude that the individual has not mitigated the Criteria H and J concerns cited in the Notification Letter. 10 C.F.R. § 710.7(a) (“Any doubt as to an individual’s access authorization eligibility shall be resolved in favor of the national security.”). Accordingly, the individual’s access authorization should not be restored at this time.

V. CONCLUSION

For the reasons set forth above, I conclude that the individual not has resolved the DOE’s security concerns cited in the Notification Letter. Therefore, the individual has not demonstrated that restoring his access authorization would not endanger the common defense and would be clearly consistent with the national interest. Accordingly, I find that the DOE should not restore the individual’s security clearance at this time. Review of this decision by an Appeal Panel is available under the procedures set forth at 10 C.F.R. § 710.28.

Shiwali G. Patel
Administrative Judge
Office of Hearings and Appeals

Date: March 20, 2014