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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: April 4, 2017** )  
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**Case No.: PSH-17-0021**

**Issued: June 29, 2017**

**Administrative Judge Decision**

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) 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.”<sup>1</sup> For the reasons set forth below, I conclude that the Individual’s security clearance should not be restored.<sup>2</sup>

**I. BACKGROUND**

On January 23, 2016, police arrested the Individual for Driving Under the Influence (DUI),<sup>3</sup> raising concerns regarding the Individual’s eligibility to hold a security clearance. In order to address those concerns, the Local Security Office (LSO) conducted a Personnel Security Interview (PSI) of the Individual on June 2, 2016, and had the Individual evaluated by a psychiatrist (the Psychiatrist) on September 21, 2016. Because the PSI and the psychiatric examination did not resolve the security concerns raised by the Individual’s DUI arrest, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his eligibility for a security clearance. *See* 10 C.F.R. § 710.21. The Individual requested a hearing and the LSO forwarded the Individual’s request to the OHA. The Director of OHA appointed me as the Administrative Judge in this matter on April 4, 2017. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), I took testimony from the Individual, his

<sup>1</sup> Under the Regulations, “Access authorization” means an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). Such authorization will also be referred to in this Decision as a security clearance.

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

<sup>3</sup> The Individual apparently eventually plead guilty to a misdemeanor charge of Operating a Vehicle Under the Influence.

mother, his supervisor, his former supervisor, and the Psychiatrist. *See* Transcript of Hearing, Case No. PSH-17-0021 (hereinafter cited as “Tr.”). The LSO submitted eight exhibits, marked as Exhibits 1 through 8 (hereinafter cited as “Ex.”). The Individual submitted nine exhibits, marked as Exhibits A through I.

## **II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. That information pertains to Guideline G of the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, The White House (December 29, 2005) (the Guidelines). The LSO alleges, under Guideline G, that the Individual has habitually used alcohol to excess based upon his reported alcohol use history and his January 23, 2016, DUI arrest. The Individual’s reported alcohol history and DUI, as alleged, adequately justifies the LSO’s invocation of Guideline G and raises significant security concerns. The Adjudicative Guidelines state: “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.” Guideline G at ¶ 21. Among those conditions set forth in the Guidelines that could raise a disqualifying security concern are “Alcohol-related incidents away from work, such as driving while under the influence . . . regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent,” and “habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent.” Guideline G at ¶ 22 (a) and (c).

## **III. REGULATORY STANDARDS**

The Administrative Judge's role in this proceeding is to evaluate the evidence presented by the agency and the Individual, and to render a decision based on that evidence. *See* 10 C.F.R. § 710.27(a). The regulations state that:

The decision on an access authorization request is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting or continuation of access authorization will not endanger the common defense and security and is clearly consistent with the national interest. Any doubt as to an individual’s access authorization eligibility shall be resolved in favor of the national security.

10 C.F.R. §§ 710.7(a). In rendering this opinion, I have considered the following factors:

The nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the voluntariness of participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuation or recurrence; and other relevant and material factors.

*See* 10 C.F.R. § 710.7(c). The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

#### **IV. FINDINGS OF FACT**

On January 23, 2016, the police arrested the Individual and charged him with DUI. Ex. 6 at 27. After the Individual was arrested, the police administered him two breathalyzer tests for alcohol. Both tests indicated that the Individual had a blood alcohol level of .182 percent. Ex. 5 at 17; Ex. 6 at 29.

Because of the security concerns raised by the Individual's January 23, 2016, DUI arrest, the LSO conducted a PSI of the Individual on June 2, 2016. Ex. 5 at 1. During this PSI, the Individual provided a detailed history and description of his alcohol use. The Individual initially reported that, since spring of 2012, he has consumed alcohol about once a month, although there are months when he has consumed more often. Ex. 5 at 37-38. He subsequently estimated that he consumes alcohol approximately five times a month, but not every weekend. Ex. 5 at 39. He then opined that he consumed alcohol about once a week. Ex. 5 at 40, 48. The Individual further reported that he consumes from one to twelve beers or drinks at a sitting, and estimated that he becomes intoxicated 20 percent of the time that he consumes alcohol. Ex. 5 at 41, 48. The Individual said the only time alcohol had caused problems for him was when he received the DUI. Ex. 5 at 43. The Individual estimated that he had consumed about 12 beers before his DUI arrest. Ex. 5 at 29. The Individual characterized his decision to drive on the night of the DUI as "an isolated bad decision." Ex. 5 at 32. The Individual reported that the last time he had been intoxicated was on March 17, 2016 (St. Patrick's Day), when he consumed about 15 beers over 15 hours, and experienced a hangover the next day. Ex. 5 at 44-45, 54. The Individual reported waking up with a headache after drinking, and experiencing a blackout in 2012. Ex. 5 at 53. Ex. 5 at 49-50, 53. The Individual admitted he has "a tolerance to alcohol." Ex. 5 at 31. The Individual stated that he had cut down on his drinking since the DUI, and stated that he was "hardly drinking at all," and that he can stop drinking any time he wants. Ex. 5 at 48-49. The Individual stated that he does not believe that he is a problem user of alcohol or an alcoholic. Ex. 5 at 55. Other than the 72-hour Driver Intervention Program required as a result of his DUI, he has never been required to attend alcohol treatment or counseling. Ex. 5 at 26, 54. The Individual stated that he intends to "enjoy drinks with friends socially" in the future. Ex. 5 at 55.

Because the PSI did not resolve the security concerns raised by the Individual's January 23, 2016, DUI arrest, the LSO requested that the Individual be evaluated by the Psychiatrist, who examined the Individual on September 21, 2016. Ex. 4 at 1. On September 27, 2016, the Psychiatrist issued a report. In this report, the Psychiatrist noted that at the time of his DUI arrest, which occurred five hours after his last beer consumption, the Individual's BAL was .182 percent. Ex. 4 at 2-3. The Psychiatrist reported that the Individual had undergone a substance abuse evaluation as a result of the DUI; the evaluation concluded that he did not need treatment for a substance abuse disorder. Ex. 4 at 2. The Psychiatrist further noted that while the Individual stated, during his PSI, that he has had little to drink since his January 23, 2016, arrest, he had admitted consuming around 15 pints of beer on March 17, 2016. Ex. 4 at 3. The Individual also acknowledged driving while intoxicated on Thanksgiving 2015. Ex. 4 at 3. According to the Psychiatrist, the Individual "reported that he experienced much shame, embarrassment, anxiety, fear, sadness, and self-disappointment in response to his excessive alcohol consumption that evening and his decision to

drive home with the subsequent arrest.” Ex. 4 at 4. The Individual also admitted that he had developed a tolerance to alcohol. Ex. 4 at 6. The Psychiatrist reported that the Individual informed him that, “from 2012 through 2016, he consumed 6 to 12 beers up to five times a month on weekends with friends and was intoxicated on two occasions per month.” Ex. 4 at 10-11. The Individual further reported that his alcohol consumption, and tolerance to alcohol, had significantly declined after March 17, 2016. Ex. 4 at 6. The Individual stated that his future intention is to limit his alcohol consumption to four to six beers. Ex. 4 at 6.

After reviewing the Individual’s security records and conducting his examination of the Individual, the Psychiatrist concluded that the Individual does not meet the criteria for any alcohol disorders under the two most recent versions of the Diagnostic and Statistical Manual published by the American Psychiatric Association (DSM-IV) and (DSM-5). Ex. 4 at 9, 13. However, the Psychiatrist, citing standards established by the United States Department of Health and Human Services, the National Institute on Alcohol Abuse and Alcoholism, the United States Centers for Disease Control, and the United States Substance Abuse and Mental Health Services Administration, concluded that the Individual frequently engaged in excessive alcohol consumption. Ex. 4 at 10-11. The Psychiatrist further noted that the Individual “is not interested in attending substance use treatment services or verified AA [Alcoholics Anonymous] meetings.” Ex. 4 at 13.

The Individual submitted a Substance Abuse Evaluation and Treatment Report (SAETR) prepared by a Licensed Independent Chemical Dependency Counselor (the Counselor). Ex. I at 1. The Counselor did not testify at the hearing. That report indicated that the Counselor evaluated the Individual on May 16, 2017. Ex. H at 1. That evaluation included: “a multiaxial psycho-social assessment battery and clinical interview that included screening and evaluation of diagnostic information for the determination of emotional and mental disorders, substance abuse and current life stressors.” Ex. H at 1. The SAETR states in pertinent part:

The results of the assessment indicate [the Individual] has exhibited an emergent and progressive pattern of social drinking of alcohol [that escalated] to excessive drinking 6-12 beers per occasion “pretty much every weekend [by 2012].” [The Individual] reported a somewhat reduced pattern of drinking after graduating from college (2012 through 2016), but still drinking excessively 1-12 beers mostly confined weekend days and occurring approximately five days per month. Following his arrest for DUI in January 2016, [the Individual] indicated he reduced his alcohol consumption significantly to 1-2 beers on occasions with two exceptional episodes in 2016. No diagnosis was made for abuse or dependency. His assessment was negative for other psychological or emotional disorders or significant stressors.

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At the time of an earlier assessment (See [the Psychiatrist’s] assessment dated September 27, 2016), [the Individual] had stated that he intended to continue to drink socially in significant quantities similar to his pattern of use prior to his arrest. However, since that time he has developed a heightened awareness of the risks and consequences of excessive drinking, in part because of his efforts to maintain his

security clearance and his review of the Guidelines for Determining Eligibility for Access to Classified Information (Dec 30, 2005). As a result, he expressed his intent and motivation toward curbing excessive drinking completely as evidenced by him seeking an independent assessment and counseling from my agency to aid him toward that goal.

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[The Individual] agreed to participate in outpatient counseling to address identified clinical issues related to his goal of eliminating all excessive drinking. His treatment plan includes: 1) identification of the antecedents of excessive drinking and to develop effective skills and behaviors to eliminate excessive drinking in social or private settings, 2) reduce and eliminate self-medication using alcohol, and [sic] 3) improve pro-social functioning with an emphasis on alcohol free social activities. [sic] 4) develop and engage an effective positive social support system that supports non-alcohol related socialization.

[The Individual] appears to be very motivated to participate in counseling and has scheduled to attend regularly 2 or more sessions per month to pursue his treatment goals. [The Individual's] previous successful efforts reduce frequent and excessive drinking over the past year, his increased awareness of and desire to adhere to existing guidelines for maintaining his clearance status and his motivation to participate in counseling as an aid to develop a healthy lifestyle are significant indicators of a favorable prognosis.

Ex. H at 1. Because the Counselor did not appear at the hearing, I was unable to question him about this report and his conclusion that the Individual's prognosis is favorable.

The Individual also submitted a certificate of completion of a 72-hour driver intervention program, and the results (showing that he does not have an alcohol problem) of an online alcohol screening test, from the National Institute on Alcohol Abuse and Alcoholism website, that he administered to himself, as well as written statements by his mother and his two supervisors, each of whom attest to his work ethic and positive personal qualities. Exs. B, C, D, E, and F.

## **V. ANALYSIS**

The Individual's two managers testified on his behalf at the hearing. They both testified that the Individual was an excellent employee, and vouched for his character. Tr. at 13-14, 20. Both of his managers denied observing any reason to be concerned about the Individual's alcohol use. Tr. at 16-17, 20, 22-24. One of the managers noticed that the Individual has been abstaining from alcohol use during the past year. Tr. at 19-20, 24. That manager, who occasionally socialized with the Individual at office functions, testified that he can't recall seeing the Individual using alcohol since the Individual's DUI. Tr. at 24, 27-29. That manager also testified that the Individual told him he intends to abstain from alcohol use. Tr. at 29.

The Individual's mother also testified. She testified that the Individual has adopted a new, healthier lifestyle since his DUI. Tr. at 30. She also testified that her son has reduced his consumption of

alcohol and that he has not exhibited any signs of excessive alcohol consumption during the past year. Tr. at 30-31. She also testified that her son has a great support system, Tr. at 34, and that she was surprised by her son's DUI because she had always observed him using alcohol in a responsible manner. Tr. at 39. She testified that she had never observed her son in an intoxicated state. Tr. at 40. She further testified that her communication with her son has improved since the DUI. Tr. at 44. She stated that her son had not told her he intends to abstain from using alcohol, Tr. at 47, but that she has observed him "not drinking" on many occasions. Tr. at 48. She further testified that the Individual has had a "huge" change in behavior since the DUI "with increased healthy behaviors, open communication, quite a different peer group," Tr. at 48, and that her son has greatly reduced his consumption of alcohol since the DUI. Tr. at 54.

The Individual testified on his own behalf at the hearing. He testified that he did not recall telling the Psychiatrist that he intended to consume six to 10 beers in the future. Tr. at 58. The Individual testified that he intends to avoid using that much alcohol at any time in the future. Tr. at 58. The Individual further testified that he reported his alcohol use history accurately during the PSI. Tr. at 59-60. The Individual testified that he contacted the Counselor because he became concerned after reading the Psychiatrist's Report when it became available to him on May 8, 2017. Tr. at 60-61, 67. The Individual testified that he does not consider himself to have a drinking problem or an issue with alcohol. Tr. at 61, 66. However, he testified that he has "curbed [his] drinking habits over the past 12 months to one or two beers at a time." Tr. at 61. He stated that he does recognize that drinking has caused his problems with his security clearance. Tr. at 61. The Individual testified that he considered his DUI to be an anomaly, but now realizes that the amounts of alcohol he was consuming led to his DUI, Tr. at 62, and that he had to make changes to his drinking. Tr. at 62. The Individual testified that he was not concerned about his alcohol consumption on March 17, 2016, since the 15 beers were spread out over a day at the rate of one an hour, involved a relatively weak brand of beer, occurred while he watched the NCAA basketball tournament, and occurred in a situation where he was not going to be driving. Tr. at 63. He testified, that by providing time between each drink (on March 17, 2016), he was avoiding impairment in his judgment. Tr. at 63.

The Individual testified that "for me, drinking has never been about the alcohol itself," and he stated that he does not have cravings for alcohol. Tr. at 63. He further testified, "I am not concerned that I will have any issues going forward with control or returning to previous habits." Tr. at 64. The Individual denied that he used alcohol to self-medicate, or that he had discussed self-medication with the Counselor. Tr. at 65. The Individual insisted that his use of alcohol had always been a social vehicle. Tr. at 65. He noted that he did not receive a recommendation for alcohol treatment as a result of his DUI. Tr. at 67. The Individual corroborated his manager's testimony that the Individual had informed the manager that he planned to abstain from alcohol use. Tr. at 70. The Individual testified that he intends to limit his future consumption of alcohol to one or two beers at a time. Tr. at 73, 78. He stated that he has not been having any difficulty in limiting his consumption to one or two beers on an infrequent basis (which he described as once a week or less). Tr. at 74, 77-79.

The Psychiatrist observed the testimony of the other four witnesses before providing his own testimony. The Psychiatrist testified that he had examined the Individual for three-and-a-half hours on September 21, 2016. Tr. at 90-91. The Psychiatrist noted that the alcohol history provided by the Individual during the PSI and his examination indicated that the Individual had been regularly consuming large quantities of alcohol from four to six times a month between 2009 and 2016. Tr.

at 92. The Psychiatrist characterized this drinking pattern as “frequent binge alcohol consumption.” Tr. at 98. The Psychiatrist believed that the Individual was being truthful with him. Tr. at 92. The Psychiatrist testified that the Individual had reported to him that “his alcohol use had decreased in frequency and in quantity.” Tr. at 93. The Individual informed the Psychiatrist that he planned to continue using alcohol, though in moderate and controlled amounts, and that he would try to limit his consumption of alcohol to a maximum of three beers at a sitting. Tr. at 94-95. The Individual reported that he had adhered to this plan, with two exceptions. Tr. at 94. The Psychiatrist noted that he had not diagnosed the Individual with any disorder. Tr. at 95. The Psychiatrist reported that the Individual stated that he might drink from four to six beers when tailgating with friends in the future. Tr. at 96. The Psychiatrist recommended that the Individual abstain from using alcohol or limit his intake to one or two beers (but did not specify the time period for that amount of consumption). Tr. at 96. The Psychiatrist opined that the Individual did not recognize that he had an alcohol issue at the time of his evaluation, but at the time of the hearing, seemed to be taking his alcohol issue much more seriously, noting that the Individual had sought counseling and had spoken with his family and employer about the issue. Tr. at 96-97. According to the Psychiatrist, the Individual “now understands that he risks his employment if he continues to drink habitually to excess.” Tr. at 97. The Psychiatrist opined that the Individual needs to exhibit the ability to limit himself to one or two beers at a sitting for one year, further opining that he “would start the period currently rather than last year because it’s only now that he seems to be taking this seriously and has been motivated to pursue some intervention.” Tr. at 98. The Psychiatrist testified that the Individual is still in “the early stage of his recovery, not the later stage.” Tr. at 98, 104.

The Psychiatrist testified that the Individual’s continued socialization with the same peer group that he was with on the night of his DUI heightened the risk that he might return to binge drinking, noting “it’s very difficult to maintain sobriety or controlled drinking when your friends are drinking heavily and regularly, and these are long-term friends with whom you’ve established relationships and activity patterns.” Tr. at 99-100. The Psychiatrist also noted that, after his DUI, the Individual said he was going to abstain from using alcohol, but did not do so. The Psychiatrist believed that this was evidence that the Individual could not stop drinking, noting “it’s easy to say one thing, but it’s hard to do it.” Tr. at 106. The Psychiatrist further testified that it is difficult to engage in controlled drinking over the long term. Tr. at 100. The Psychiatrist opined that the Individual was in denial about his alcohol problem, but is now coming to terms with it. Tr. at 104. Most importantly, the Psychiatrist opined that the Individual has, at best, a fifty percent chance of being able to control his drinking. Tr. at 106.

The Psychiatrist admitted that “using alcohol habitually to excess” is not a disorder that is recognized by the psychiatric profession. Tr. at 103. When the Psychiatrist was asked why he believed that the Individual needed to be rehabilitated or reformed when he did not have a diagnosable alcohol disorder, the Psychiatrist responded by stating: “Because he’s been consuming alcohol on a binge basis, which is not necessarily a diagnosis, but it’s a misuse of alcohol to an unhealthy degree, which does present risks of developing an alcohol abuse disorder.” Tr. at 103. The Psychiatrist further opined that the Individual “probably” has an alcohol problem. Tr. at 104.

The record shows that the Individual has a well-established history of frequent binge drinking to intoxication. Ultimately, the Individual’s binge drinking resulted in a DUI on January 23, 2016. After that DUI, the Individual initially resolved to abstain from using alcohol, but then decided that he would continue drinking, albeit in a limited and controlled fashion, limiting himself to a

maximum of three beers in a sitting. This pattern of frequent binge drinking constitutes “habitual use of alcohol to excess.” Therefore, the question before me is whether the security risk posed by the Individual’s binge drinking has been sufficiently mitigated. It is well settled that Part 710 places the burden of persuasion on the individual, because it is designed to protect national security interests. *See, e.g., Personnel Security Hearing*, PSH-17-0015 at 3 (2017). This is not an easy burden for an individual to sustain. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance). Accordingly, the Individual must come forward with evidence to convince me that granting or restoring his 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 Individual admits, that on at least two occasions in 2016, he exceeded his self-imposed consumption limit. Moreover, both of the experts whose opinions appear in the record have expressed a belief that the Individual has a problem with excessive drinking. (The Counselor’s report acknowledges the Individual’s need for treatment by outlining a treatment plan). While the record shows that the Individual has recently begun to exhibit a better understanding of the seriousness of his issues with alcohol, significantly curtailed his alcohol consumption, and sought counseling for his excessive alcohol use, the Psychiatrist has convincingly opined that the Individual is still in the early stages of his recovery. Moreover, the treatment plan developed for the Individual by the Counselor has yet to be actually implemented. Because the Individual’s “recovery” is still in its early stage, the Psychiatrist testified that there is a significant likelihood (approximately 50 percent) that the Individual will return to excessive drinking, which poses an unacceptable risk.

Guideline G sets forth four conditions which can mitigate security concerns arising from an individual’s Alcohol Dependence, three of which pertain to the present case.<sup>4</sup> Guideline G at § 23. Section 23(a) provides that security concerns arising from alcohol concerns may be mitigated if: “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 good judgment.” Clearly, not enough time has passed since the Individual’s last episode of excessive alcohol consumption to mitigate the present concerns, since the Counselor believes he still needs treatment, and the Psychiatrist is of the opinion that there is a significant chance that the Individual will return to excessive alcohol use. For the same reasons, I do not find that the Individual’s excessive alcohol use is unlikely to recur or does not cast doubt on the Individual's current reliability, trustworthiness, or good judgment.

Section 23(b) of the Guidelines provides that security concerns arising from alcohol concerns may be mitigated if: “the individual acknowledges his [alcohol issues], provides evidence of actions taken to overcome this problem, *and* has established a pattern of . . . responsible use . . .” (emphasis added). The Individual has very recently recognized that he needs help with his alcohol issues and

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<sup>4</sup> The fourth condition only applies to individuals who have completed a treatment program, which the Individual has not. § 23(d).



has recently started counseling. While the Individual now exhibits some insight into his issues with alcohol, his insight appears to be somewhat ambivalent and tentative; for example, at the hearing he testified that he does not consider himself to have a drinking problem or an issue with alcohol. Tr. at 61, 66. The Individual has started counseling. However, at the time of the hearing, the Individual had only attended one three-hour evaluation session with the Counselor. The Individual has been successfully drinking in a controlled manner since August 2106.<sup>5</sup> However, a concern remains about the Individual's ability to continue this pattern going forward given that he has barely started his treatment, has only recently begun to understand the extent of his alcohol problem (and does not appear to have fully accepted that he has a problem with alcohol), has exhibited some difficulty controlling his drinking (he has had at least two occurrences of heavy drinking since his DUI and had abandoned his attempt to completely abstain from alcohol use) and continues to maintain the same peer group with whom he has traditionally indulged in excessive drinking.

Section 23(c) of the Guidelines provides that security concerns arising from alcohol concerns *may* be mitigated if: "the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, *and* is making satisfactory progress." (emphasis added). The Individual is clearly a current employee who is participating in a counseling program with no history of previous treatment or relapse. However, the Individual has not met his burden of showing that he is making satisfactory progress, since at the time of this hearing he has only taken the first step of his counseling, a three-hour diagnostic evaluation, and has not yet truly engaged in the treatment process.

Because the Individual is still at the very earliest stage of his counseling, and because the Psychiatrist has found that the Individual is still in the early stages of his recovery and only has a 50 percent chance of avoiding future excessive drinking, I find that the security concerns raised by his DUI and excessive and frequent excessive alcohol use have not been sufficiently resolved.

## **VI. CONCLUSION**

For the reasons set forth above, I conclude that the LSO properly invoked Guideline G. After considering all the evidence, both favorable and unfavorable, in a common sense manner, I find that Individual has not sufficiently mitigated all of the security concerns raised under Guideline G. Accordingly, the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest.

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<sup>5</sup> This pattern of drinking had lasted eight months, at the time of the hearing.

Therefore, the Individual's security clearance should not be restored at this time. The Individual may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine  
Administrative Judge  
Office of Hearings and Appeals

Date: June 29, 2017