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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 9, 2021)	Case No.: PSH-22-0026
)	
_____)	

Issued: April 12, 2022

Administrative Judge Decision

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) to hold an access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled “General Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.”¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual’s access authorization should not be restored.

I. Background

On March 9, 2021, the Individual tested positive for alcohol use on a random breath alcohol test (BAT) administered to him by his employer, a contractor at a DOE facility. Ex. 6 at 1-6. On March 25, 2021, a local security office (LSO) issued a Letter of Interrogatory (LOI) to the Individual inquiring into the circumstances that led to the positive BAT and the Individual’s alcohol consumption. Ex. 7 at 1-10. The Individual submitted his response (the Response) to the LOI on March 30, 2021.² Ex. 7 at 9. The LOI asked the Individual how much alcohol he had consumed on the evening prior to his positive BAT. The Individual responded to this question by stating: “Possibly 6-8 beers consumed 3-8-21 from about 2:30 – 8:30 p.m.” Ex. 7 at 1. The LOI further asked the Individual if he had ever previously been treated for alcohol issues. The Individual responded by stating: “[nine] months in 2019 seeing a counselor once a month. Then a

¹ An access authorization is defined as “an administrative determination that an individual is eligible for access to classified mater or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). Such authorization will be referred to variously in this Decision as an access authorization or security clearance

² The signature block of the Response included the following statement: “I certify that the information I have recorded on this form is correct and complete to the best of my knowledge and belief. I submit this information to the DOE with the knowledge that any false statement or omission of material fact may be considered a felony under Section 1001, Title 18, U.S. Code.” Ex. 7 at 9.

[six] week [Intensive Outpatient Program (IOP)] course. Successfully graduated both.” Ex. 7 at 6. When the LOI asked the Individual about his future intentions regarding alcohol use, he responded by stating: “Cease consumption till [Human Reliability Program (HRP) Certification] may be reinstated and watch closely amounts consumed thereafter.” Ex. at 7.

The LSO requested that the Individual undergo an evaluation by a DOE-contracted Psychologist (Psychologist), who conducted a clinical interview (CI) of the Individual on June 4, 2021. Ex. 8 at 7. In addition to interviewing the Individual, the Psychologist reviewed the Individual’s personnel security file, and provided for the administration of three tests to the Individual: the Minnesota Multiphasic Personality Inventory-Second Edition (MMPI-2) (a standardized psychological assessment); the Ethyl Glucuronide (EtG) urine test (which detects alcohol consumption up to 80 hours prior to the test); and a Phosphatidylethanol (PEth) blood test (which detects alcohol use during the previous 28-days).³ Ex. 8 at 2. During the CI, the Individual admitted that he had consumed about 16 drinks on the evening before the positive BAT, rather than the six to eight drinks he reported in his LOI Response. Ex. 8 at 3. The Individual also reported that he had a longstanding history of multi-substance abuse, including cocaine and marijuana,⁴ which led to the Psychologist’s conclusion that the Individual “has a propensity toward addictive behaviors.” Ex. 8 at 3-5, 8. The Individual further reported that he had attended an IOP in 2019 at the request of the HRP staff who also advised the Individual to attend Alcoholics Anonymous (AA) meetings, which he did not do at the time. Ex. 8 at 5-6. The Individual also reported that he stopped using alcohol after the positive BAT but resumed alcohol consumption five weeks afterward. Ex. 8 at 5.

The Psychologist issued a report of his findings (the Report) on June 15, 2021. Ex. 8 at 9. In the Report, the Psychologist stated: “It is believed that [the Individual] technically meets criteria for Alcohol Use Disorder [AUD]. However, [the Individual] denied most of the criteria for [AUD] and firsthand or collateral data to support that diagnosis are not available, thus it is not deemed appropriate to firmly make that diagnosis.” Ex. 8 at 8. The Psychologist further concluded that the Individual “likely meets criteria for a diagnosis of [AUD] even though acknowledgment or confirmation of all necessary criteria are lacking.” Ex. 8 at 9. The Psychologist opined that the Individual was neither reformed nor rehabilitated from his AUD, and recommended that the Individual:

[N]eeds to participate in an [IOP] of at least six weeks duration and involving both individual and group therapeutic activities, along with alcohol education. . . . It is also recommended that [the Individual] attend AA groups or other similar/recognized support groups of his choice. Attendance should involve at least three meetings per week. It is also recommended that [the Individual] actively seek out a sponsor who will meet with him on a regular basis. It is recommended that the [Individual] demonstrate abstinence from alcohol for a full year and during that

³ The EtG test result was negative, but the PEth test was positive, at 1373 ng/ml. Ex. 8 at 7. The laboratory report indicates that “PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption,” but cautioned that “the Center for Substance Abuse Treatment (CSAT) advises caution in interpretation and use of biomarkers alone to assess alcohol use. Results should be interpreted in the context of all available clinical and behavioral information.” Ex. 8 at 29.

⁴ The Individual also reported that he had left a previous employer because of alcohol issues. Ex. 8 at 5, 8.

year the individual psychotherapy should continue as deemed appropriate by the therapist.

Ex. 8 at 9.

After receiving the Report, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual, informing him that his security clearance was suspended and that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold 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 Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), I took testimony from seven witnesses: the Individual, his brother-in-law, his spouse, his counselor (Counselor), his AA Sponsor (Sponsor), his coworker, and the Psychologist. *See* Transcript of Hearing, Case No. PSH-22-0026 (hereinafter cited as "Tr."). The LSO submitted 10 exhibits, marked as Exhibits 1 through 10 (hereinafter cited as "Ex."). The Individual submitted eleven exhibits, marked as Exhibits A through K.

Exhibits A, C, and E are laboratory reports dated February 17, 2022, January 18, 2022, and December 10, 2021, each of which indicates that PEth tests administered to the Individual on those dates were negative.

Exhibits B, D, and F are laboratory reports dated February 17, 2022, January 18, 2022, and December 10, 2021, each of which indicates that EtG tests administered to the Individual on those dates were negative.

Exhibit G is a list of appointments that the Individual attended as part of the second IOP and aftercare from November 8, 2021, through February 28, 2022.

Exhibit H is a copy of a Certificate of Completion dated January 4, 2022, for the second IOP attended by the Individual.

Exhibit I is an attendance sheet showing that the Individual attended 44 AA meetings from September 22, 2021, through February 27, 2022.

Exhibit J consists of six breath alcohol testing forms from the HRP. They indicate that the Individual tested negative for alcohol on April 16, 2021, June 9, 2021, June 28, 2021, October 6, 2021, January 12, 2022, and one indecipherable date.

Exhibit K is a duplicate copy of Exhibit A.

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 substantial doubt concerning his eligibility for a security clearance. In support of this determination, the LSO cited Guidelines G and E of the Adjudicative Guidelines.

Under Guideline G (Alcohol Consumption), the LSO cited the Individual's positive BAT and the Psychologist's conclusion that the Individual technically meets the criteria for AUD.⁵ This information adequately justifies the LSO's invocation of Guideline G. 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, under Guideline G, are "alcohol-related incidents at work, . . . regardless of whether the individual is diagnosed with alcohol use disorder" and "diagnosis by a duly qualified medical or mental health professional (e.g. . . . clinical psychologist. . .) of alcohol use disorder." Guideline G at §§ 22(b) and (d).

Under Guideline E (Personal Conduct), the LSO cites the Individual's failure to accurately report the full extent of his alcohol consumption on the night before his positive BAT in his responses to the LOI. This information adequately justifies the LSO's invocation of Guideline E. Guideline E (Personal Conduct) provides that "[c]onduct involving questionable judgement, lack of candor, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes." Adjudicative Guidelines at § 15. Among the disqualifying conditions that can raise a security concern under Guideline E is the "*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." Adjudicative Guidelines at § 16(a) (emphasis supplied).

III. Regulatory Standards

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). 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) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be

⁵ I note that the Individual does not dispute the accuracy of the AUD diagnosis.

clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Hearing Testimony

The Sponsor testified at the Hearing that he has been the Individual’s sponsor for “two or three months.” Tr. at 22. He testified that he first met the Individual “a few months ago” in November 2021 when they attended the same AA meeting; they now talk three or four times a week. Tr. at 13-14, 22. He believes that the Individual is sincere in his desire to remain sober, and he exhibits “a willingness and desire to stop drinking and stay stopped.” Tr. at 15, 20. The Sponsor further testified that the Individual is “working hard at that,” exhibits a “willingness to learn from others,” and has completed the first three steps of AA’s Twelve-Step Program. Tr. at 15, 17-18. He asserted that the Individual is honest with himself and the process when working the Twelve-Steps. Tr. at 18. The Sponsor believes that the Individual exhibits a “passion for a better life.” Tr. at 20. The Sponsor testified that he had not observed that the Individual still felt a “need to drink.” Tr. at 22. He also testified that the Individual acknowledges that he is an alcoholic and intends to abstain from all alcohol use. Tr. at 23-24. The Sponsor attested that the Individual’s sobriety date is November 2, 2021. Tr. at 23.

A coworker of the Individual testified at the Hearing that the Individual exhibits a positive attitude towards his treatment and AA and takes them seriously. Tr. at 28, 30, 32.

The Individual’s brother-in-law testified that they are together two to five times a month at family gatherings. Tr. at 36. The Individual told the brother-in-law that he is “done drinking alcohol” and “does not seem to be struggling with that decision.” Tr. at 40-41, 45. The Individual understands the importance of addressing his alcohol issues, and he is addressing those issues by attending the IOP, attending AA meetings and having a sponsor. Tr. at 37. He described that Individual as “the safest person I’ve ever met” and “a rule follower.” Tr. at 38-39. He testified that it does not bother the Individual to be around others using alcohol. Tr. at 39. His family is supportive of the Individual and his decision to stop drinking. Tr. at 41. It has been eight or nine months since he observed the Individual using alcohol, and he has not observed alcohol at the Individual’s home for six or seven months. Tr. at 44, 47.

The Spouse testified at the Hearing that she has been married to the Individual for ten years. Tr. at 54. She described the Individual as “a very quiet, private, non-self-centered man” and a “very determined type of person.” Tr. at 54, 58. She testified that the Individual had completed an IOP prior to the positive BAT but continued using alcohol afterward because he did not believe he was sent to the first IOP to address alcohol use, but rather for his past marijuana use. Tr. at 68-69. She believes that the Individual was not “very receptive” to the first IOP and did not take it as seriously as he should have. Tr. at 55. She testified that her husband first seemed to understand his alcohol issue after he met with the Psychologist in June. Tr. at 55-56. At that point, he curtailed his alcohol use. Tr. at 56. When the Individual’s security clearance was suspended in July, he

transitioned to drinking non-alcoholic beer to help stop drinking. Tr. at 56-57, 71-72. The Spouse testified that, when the Individual received the Report in early November 2021, he truly realized that he had a problem and needed to address it. He stopped drinking non-alcoholic beer, began attending the second IOP, and started attending AA meetings. Tr. at 57, 72. She testified that he recently finished his second IOP and is undergoing individual therapy. Tr. at 61, 71.

The Spouse further testified that the Individual describes himself as an alcoholic and believes he has a problem with alcohol. Tr. at 77. The Spouse noted that the Individual now realizes he must address his alcohol issue and has become “willing and open-minded” and “more open and involved in seeking and learning the literature of this disease.” Tr. at 58, 60. She is supportive and proud of him. Tr. at 61. She testified that his family is supportive of him as well. Tr. at 66. According to the Spouse, the Individual gains peace from his AA meetings and gets a lot out of his individual therapy sessions. Tr. at 65. The Spouse testified that the Individual has a positive attitude towards his sobriety and intends to permanently abstain from alcohol use. Tr. at 68, 70. She testified that the Individual had never tried to stop drinking before and now has not consumed alcohol for the past six months. Tr. at 71. The Spouse testified that she still consumes alcohol and that they keep alcohol in their home. Tr. at 74.

At the Hearing, the Individual testified that he reduced his drinking after the CI, but he now realizes that he should have completely stopped using alcohol at that point. Tr. at 82. He did not realize that he needed to completely abstain from alcohol use until his clearance was suspended. Tr. at 83. He previously thought that by consuming non-alcoholic beer, he was abstaining from alcohol consumption, but now, he considers consuming non-alcoholic beer the equivalent of consuming alcohol. Tr. at 83-84, 123. He has not consumed any alcoholic beverages, other than non-alcoholic beer, since July 19, 2021. Tr. at 84, 123. He considers his sobriety date to be November 2, 2021, the last time he used non-alcoholic beer, which he considers to be alcohol. Tr. at 96, 122-123. He received the Report on November 1, 2021, and he realized that the Psychologist’s conclusions were true. Tr. at 85-86. At that point, he decided to permanently abstain from alcohol use and realized that alcohol had made the past year “one of the most stressful years of my life and my family’s life.” Tr. at 87-88. He testified that the first IOP “didn’t click” because he believed he was there to address his past marijuana use and failed to absorb the lessons concerning alcohol. Tr. at 89-90. The second IOP lasted two weeks longer than the first IOP, and he believed it provided him with a roadmap and tools to address his alcohol problem. Tr. at 89-91. He now attends one aftercare meeting and three AA meetings each week. Tr. at 93, 120. He sees the Counselor every other week. Tr. at 121. He finds value in AA, which he described as “inspiring” and “terrifying.” Tr. at 94-96. He has been attending AA meetings since September 2021 but did not start attending on a weekly basis until November 2021. Tr. at 123. In December 2021, he obtained a sponsor, who he described as a good fit. Tr. at 100. He is on Step Four of AA’s Twelve Step Program. Tr. at 100-101, 106-108. He further testified that he has a strong support system. Tr. at 114-115. He testified: “I can’t say anything negative about being sober” and “it’s been enjoyable to be abstinent.” Tr. at 102, 110. He now accepts that he is an alcoholic and acknowledges that he has “an addictive personality.” Tr. at 92, 116. He testified that he has not experienced cravings for alcohol. Tr. at 114.

When the Individual was questioned about his false statement in his response to the LOI, in which he significantly underreported his consumption of alcohol on the night before the positive BAT, the Individual, stated:

I didn't want to admit I had a drinking problem. I didn't want to be labeled as an alcoholic. So yes. I tried to minimize what I was consuming and so that I didn't get that label. I thought in my head that by saying no, I only have one beer instead of two, that minimization was somehow protecting me, when at the end of the day all it was doing was protecting the alcohol and the consumption from myself.

Tr. at 103-104. The Individual also admitted that he may have lost track of how much he consumed on the night before his positive BAT, so he just guessed when responding to the LOI. Tr. at 119, 122.

The Counselor testified at the Hearing, after observing each of the other witnesses' testimony other than the Psychologist's, that he taught the Individual at both IOPs and now provides individual therapy to the Individual. Tr. at 127-128, 130. He diagnosed the Individual with AUD, Moderate and believes that the Psychologist's recommendations were "exactly appropriate." Tr. at 137, 140. He testified that the Individual was a "pretty minimal contributor" in his first IOP experience since his participation was externally motivated and opined that he is now internally motivated as well. Tr. at 128, 147-148. The Individual was more engaged during his second IOP where he began specifically addressing his relationship with alcohol, which the Counselor believed "was probably more intimate and strong than he expressed to others, and perhaps than he even understood himself." Tr. at 127-130. The Individual's second IOP began on November 8, 2021, and concluded on January 4, 2022. Tr. at 142. The Individual's therapy is focused on improving the Individual's "ability to engage and communicate and do it in an emotionally expressive way that's accurate" Tr. at 130.

The Counselor testified that the Individual has "far exceeded his expectations" and "has specifically looked at what he wants out of sobriety, and he is fighting to keep that." Tr. at 132. He testified that the Individual is genuinely committed to his recovery and has integrated what he has learned in the IOP, AA, and therapy into his life. Tr. at 135. He also opined that the Individual "fits quite well into AA" Tr. at 138. He believes that the Individual is "done" with alcohol; however, he noted that the Individual "had a strong relationship with alcohol" and that "the risk is never completely gone." Tr. at 136, 139. The Counselor further testified that the Individual has "everything he needs to have a positive prognosis" and is responding well to therapy. Tr. at 139, 150. The Counselor did admit that he was concerned that the Individual feels comfortable in the presence of others using alcohol, "although everybody has to co-exist with active alcohol users." Tr. at 145-146. The Counselor described the Individual as "not completely out of the woods, but he – he understands how exhausting it was to drink and maintain his drinking pattern. He realizes that he was using alcohol to cope with the effects of alcohol." Tr. at 152. The Counselor testified that November 2, 2021, is the appropriate sobriety date for the Individual, and that "it shouldn't be a moment before that." Tr. at 135-136. When the Counselor was asked about the Individual's "prognosis to remain abstinent" the Counselor stated:

I'm very hopeful. Of course, with alcohol as the center point of what we're talking about, I'm cautious about my hope, but he has everything, every utensil, every tool, every incentive sitting right in front of him. So provided he puts all of that to work and continues refining it, he'll do well.

Tr. at 143-144.

After observing each of the other witnesses' testimony at the Hearing, the Psychologist testified that if he were to evaluate the Individual at this time, he would "probably" find that the Individual has shown reformation or rehabilitation. Tr. at 173. The Psychologist testified that the Individual has been in remission, as it is defined in the DSM-5, since he stopped using alcohol and began drinking nonalcoholic beer, since "he didn't put any alcohol in his body from that point forward," even though "his head was not completely disengaged from drinking."⁶ Tr. at 171. He further testified that eight months is a sufficient period to show reform or rehabilitation.⁷ Tr. at 172. The Psychologist was highly impressed by the Individual's sincerity, credibility, and commitment to sobriety and was convinced that he had made great strides toward change. Tr. at 158-159, 162. The Psychologist testified that when he conducted the CI, the Individual was anxious; his "defensiveness was pretty high;" and he minimized his alcohol use, which led him to recommend a rigorous program for the Individual, which the Individual has fully complied with, although he delayed before starting it. Tr. at 155-158. While he recommended, and still would like to see, that the Individual remain sober for a full year, he characterized the Individual as "probably ahead of the norm at this stage of just having finished an outpatient program" and noted that he had made "dramatic" progress. Tr. at 157-160.

The Psychologist testified that the Individual still has the AUD diagnosis, and his remission is still relatively short; however, he further testified: "You heard [the Counselor] talk about 12 and 14 months. We just don't have that today, but, you know, I wouldn't -- I wouldn't leave upset if we said this is -- this is close enough if he commits to keep working at it." Tr. at 160-161. He further testified that the Individual had made a "strong and as significant of a change as you -- as you ever see in this amount of time. I think he's -- I think he's sincerely buying in and putting action behind his words." Tr. at 163-164. His prognosis is "fair to "good," although "his chances of doing well are really quite good." Tr. at 159-161. The Psychologist also testified: "I think some good things are going on, and I think that he probably really is getting past and in -- past that stage of the fuzzy headed, I'm not drinking, but I'm not -- I'm not truly sober, emotionally, psychologically yet, and you can see a huge change in that today. He looks a lot better." Tr. at 165-166. He agreed that the Individual now seems to be internally motivated rather than externally motivated. Tr. at 166-167.

⁶ The Individual and the Counselor opined that the Individual last used alcohol on November 1, 2021, because they considered the consumption of non-alcoholic beer to be the equivalent of alcohol consumption.

⁷ The Individual transitioned to consuming non-alcoholic beer in July 2021.

V. Analysis

Guideline G

The Individual has a longstanding and significant history of substance abuse, which has included marijuana, cocaine, and alcohol. He has admittedly left one employer because of this substance abuse. He continued to use alcohol even after the HRP required him to attend his first IOP, and less than two years after he completed the first IOP, he had a positive BAT at his jobsite. After the CI, the Individual reduced his alcohol consumption. When the Individual's clearance was suspended, he began using non-alcoholic beer. When he received the Notification Letter accompanied by the Report on November 1, 2021, he realized that he needed to attend a second IOP and AA meetings to completely abstain from all alcohol use. Since that point, the Individual's efforts to address his AUD have been admirable, effective, and have exceeded expectations. The hearing testimony strongly convinced me that the Individual now fully understands his issue with alcohol and is completely and sincerely dedicated to maintaining his sobriety. The Individual's abstinence from alcohol since November 2, 2021, is well documented through highly credible hearing testimony and the laboratory test results he has submitted. Moreover, the Individual has established a strong support network, and continues to attend AA meetings at least twice a week, attend weekly aftercare meetings, work with his AA sponsor, and receive individual therapy.

However, I have four concerns. First, the Individual has a longstanding and significant history of substance abuse, including a previous history of treatment and relapse. Second, the Individual's spouse continues to use alcohol and continues to keep alcohol in their home. Third, the Individual continues to be present when others are consuming alcohol and seems insufficiently concerned about the potential danger inherent in that situation. Fourth, and most importantly, the Individual's sobriety dates to November 2, 2021, only five and a half months before the Hearing. While this time frame qualifies the Individual for an Early Remission Specifier under the DSM-5, it is significantly less than the 12 months of sobriety originally recommended by the Psychologist in the Report, and that is required to qualify for a Sustained Remission Specifier under the DSM-5. While at the Hearing, the Psychologist generously opined that the Individual's sobriety date is in July, when the Individual started consuming non-alcoholic beer instead of alcoholic beverages, I agree with the Individual and the Counselor who both agree that the Individual's sobriety date is November 2, 2021.

However, after hearing the testimony of the other six witnesses at the Hearing, the Psychologist, who was highly impressed by the Individual and his progress and considered the Individual to have been sober for eight months, was willing to relax his 12-month abstinence recommendation and testified that the Individual has shown that he is sufficiently reformed and rehabilitated. I too was impressed with the Individual's sincerity and commitment to his sobriety. He exhibited a new-found understanding of the toll that his AUD had on him and his family, and a determination and commitment to change. Rather than just attending AA meetings, he has become engaged in the Twelve-Step Program, obtained a sponsor, and has clearly internalized AA's teachings. Instead of going through the motions at his second IOP, he became an active participant and has impressed the Counselor, one of his instructors during that program as well as his individual therapist, with his progress. Most importantly, the Individual now realizes and accepts that he is an "alcoholic" and a person with AUD and has now demonstrated his commitment to maintaining his sobriety.

However, even though I am highly impressed with the Individual's progress, I find that his sobriety is still in its beginning stage and has yet to meet the full test of time, given his longstanding history of substance abuse and his history of unsuccessful treatment. Accordingly, I find that he has not resolved the security concerns raised under Guideline G.

The Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G 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 judgment." Guideline G at § 23(a). Simply put, not enough time has passed since that Individual's last use of alcohol, given his longstanding history of substance abuse and his history of unsuccessful treatment to sufficiently convince me that his substance abuse will not recur. I therefore find that the mitigating condition set forth at § 23(a) is not present.

The Adjudicative Guidelines further provide that an individual may mitigate security concerns under Guideline G if that individual "acknowledges his . . . 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." Guideline G at § 23(b). In the present case, the Individual has: clearly acknowledged his AUD; provided laboratory and testimonial evidence that he has been abstaining from alcohol use for the past five and a half months; and has complied with the Psychologist's treatment recommendations by attending AA meetings, attending aftercare meetings, obtaining an AA sponsor, completing a second IOP, obtaining individual therapy, and undergoing regular laboratory testing. However, five and a half months is an insufficient period to demonstrate an established pattern of abstinence, given the Individual's longstanding history of substance abuse and history of relapse after treatment. I therefore find that the mitigating condition set forth at § 23(b) is not present.

The Adjudicative Guidelines also provide that an individual may mitigate security concerns under Guideline G if that "individual is participating in counseling or treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program." Guideline G at § 23(c). Since the Individual has a history of treatment and relapse the mitigating condition set forth at § 23(c) is not present.

Finally, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if that 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." Guideline G at § 23(d). The record shows that the Individual has successfully completed the second IOP, and the hearing testimony and laboratory test results show that the Individual has demonstrated a clear pattern of abstinence in accordance with the Psychologist's treatment recommendations. However, I find that this pattern of abstinence has not been sufficiently established given its short duration under the circumstances.

In sum, I find that none of the mitigating factors listed above are present in this case. Accordingly, I find that the Individual has not mitigated or resolved the security concerns raised under Guideline G by the positive BAT and his AUD diagnosis.

Guideline E

The Individual clearly engaged in minimization when he underreported his alcohol consumption in the LOI. However, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline E if that “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.” Guideline E at § 17(d). The Individual has acknowledged that he underreported his alcohol consumption in the LOI because he wanted to cover up his alcoholism, and I find that the Individual’s untreated AUD was causing him to be dishonest about his alcohol use. While I have found that the Individual has not sufficiently mitigated the security concerns raised by his AUD, I find that the counseling, AA education, and treatment that the Individual has received for his AUD has meaningfully changed his behavior by making him open and honest about his alcohol problem. He now openly identifies as an alcoholic and recognizes the importance of honesty, especially about his alcohol use, in his recovery. His openness and honesty about his alcohol problem has alleviated his need to conceal his alcoholism, the very stressor that caused him to conceal the true extent of his alcohol consumption. Accordingly, I find that the mitigating condition set forth at Guideline E § 17(d) is present, and that the Individual has resolved the security concerns raised under Guideline E by his failure to disclose the full extent of his alcohol consumption on the night before his positive BAT.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines E and G. After considering all of the evidence, both favorable and unfavorable, in a commonsense manner, I find that the Individual has mitigated the security concerns raised under Guideline E. However, I further find that the Individual has not mitigated 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. Therefore, the Individual’s security clearance should not be restored. The parties 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