

G (Alcohol Consumption), Guideline J (Criminal Conduct), and Guideline E (Personal Conduct) of the Adjudicative Guidelines. Ex. 2.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations by requesting an administrative review hearing. Ex. 1. The Director of the Office of Hearings and Appeals (OHA) appointed me to serve as the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted 11 numbered exhibits (Ex. 1-11) into the record and presented the testimony of the Psychologist. The Individual introduced six lettered exhibits (Ex. A-F) into the record and testified on his own behalf.

Before the hearing, the Individual submitted the following exhibits for admission into the record: a June 2022 report of urinalysis testing, the result of which was negative for controlled substances; a letter from his former manager; an award certificate from the DOE; and a document containing a list of other awards he received from 1998 to 2022. Ex. A-D; Tr. at 19. After the hearing, the Individual submitted the results of a Phosphatidylethanol (PEth) test, taken the day after the hearing, which was negative for the presence of alcohol, and the results of urinalysis testing, covering the period from November 2021 to February 2022. Ex. E-F. Each of the urinalysis tests included an Ethyl Glucuronide (EtG) test, and the results of these tests were all negative for alcohol.² Ex. F.

II. Regulatory Standard

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 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 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.

² It should be noted that there is nothing in the record providing an interpretation of the results of the EtG or 2022 PEth test.

§ 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

III. Notification Letter and Associated Security Concerns

As previously stated, the Notification Letter included a Summary of Security Concerns that raised concerns about the Individual's eligibility for access authorization under Guidelines G, J, and E of the Adjudicative Guidelines.

Guideline G relates to security risks arising from excessive alcohol consumption. 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. Adjudicative Guidelines at ¶ 21. As support for citing Guideline G, the LSO relied upon the Psychologist's determination that the Individual met the criteria for Alcohol Use Disorder, Moderate, in early remission, without adequate evidence of rehabilitation or reformation. Ex. 6 at 7. The LSO also cited the Individual's August 2021 DUI arrest. Ex. 2 at 4-5.

Guideline J addresses criminal activity, which can create doubts about a person's judgment, reliability, and trustworthiness. Adjudicative Guidelines at ¶ 30. Furthermore, it calls into question a person's ability or willingness to comply with laws, rules, or regulations. *Id.* In citing Guideline J, the LSO relied upon the Individual's August 2021 DUI arrest, the Individual's admission during his evaluation with the Psychologist that he was cited for a Minor in Possession (MIP) of Alcohol at the age of 16, a 2013 conviction for Distribution of a Controlled Substance (marijuana), and a 2008 arrest for Malicious Injury to Property, after he was accused of breaking a window while at a bar. Ex. 2 at 5; Ex. 6 at 3.

Guidelines E addresses conduct involving questionable judgment, lack of candor, dishonesty, or an unwillingness to comply with rules and regulations. Adjudicative Guidelines at ¶ 15. Such conduct "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." *Id.* Regarding Guideline E, the LSO cited the Individual's "long history of substance use and poor judgment and reliability in association with substance abuse." Ex. 2 at 5-6. Specifically, the LSO cited the Individual's arrests in 2008, 2013, and 2021, which it alleged showed a "history of illegal activities regarding alcohol and illegal controlled substances." Ex. 2 at 6. The LSO also relied upon the Individual's "failure to provide truthful and candid answers during [the] national security investigative process," referencing the Individual's inconsistent responses regarding the details of his 2013 arrest in two Personnel Security Interviews (PSI), the LOI, and during the psychological assessment. *Id.* at 6-7.

IV. Findings of Fact

The Individual underwent PSIs in both October 2017 and January 2018, during which he was asked to provide details regarding his 2008 and 2013 arrests. Ex. 8 at 173-209³; *see* Tr. at 187-197. During the October 2017 PSI, the Individual explained that, in 2008, he was standing in front of a bar, waiting for a taxi, and someone came out of the bar, and told a police officer he broke a window inside the bar. Ex. 8 at 186-187. He was later charged with Malicious Injury to Property stemming from this incident. *Id.* at 186. Additionally, during the October 2017 PSI, the Individual explained the circumstances of the March 2013 arrest for distribution of marijuana. *Id.* at 187. He stated that the reason he had \$5,600 cash in his car at the time of his arrest was that he had purchased a quarter pound of marijuana from a friend to “start a business.” Ex. 8 at 187-188. At the time he was arrested, he “was in the middle of moving...[and] literally had everything that [he] owned in [his] car,” including a scale, his “paraphernalia” and over \$5000 cash. *Id.* at 188-189. The Individual stated that approximately \$300 of the cash was the result of marijuana sales. *Id.* at 189. During the January 2018 PSI, the Individual asserted that he had over \$5,600 in his car, at the time of his arrest, because he collected his tips “from restaurant work” and kept them in his car “for a long time.” Ex. 11 at 157-159. He maintained that he “did not make more money from [drug] sales than [he] previously admitted. *Id.* at 158.

In December 2021, the Individual underwent an evaluation by the Psychologist, who issued a report of his findings in December 2021 (Report). Ex. 6 at 1-10. The Individual reported to the Psychologist that he had been diagnosed with Attentional Deficit and Hyperactive Disorder (ADHD) in second grade and started drinking and using marijuana at age 16 to reduce his anxiety and help him sleep, soon after which he was arrested for an MIP of alcohol and an “open container violation.” *Id.* at 3. In 2008, the Individual was arrested and charged with Malicious Injury to Property, after he was accused of breaking a window at a bar. Ex. 6 at 3. Regarding this arrest, the Individual told the Psychologist he fought with an employee at a bar, which resulted in one of the windows being cracked. Ex. 6 at 3. The Individual reported this charge was eventually dismissed. *Id.*

The Individual additionally provided details about his March 2013 arrest for Felony Distribution of Marijuana. Ex. 6 at 4. The Psychologist noted that a police report of the Individual’s arrest indicated the Individual was stopped by law enforcement for speeding.⁴ Ex. 6 at 4. According to the police report, during a search of the Individual’s vehicle, a law enforcement officer found the following items: “a partially full beer can; a blue smoking device with burnt residue inside; a leafy green substance next to the smoking device; several stashes of marijuana totaling [approximately] 5.6 ounces; pipes; several vacuum sealed plastic baggies; seal rolls for vacuum sealing; quart sized plastic bags; a digital scale; and approximately \$5,630 in cash.” *Id.* at 4.

³ All references to the PSIs throughout this decision use the page numbers found in red at the lower right corner of the referenced exhibits.

⁴ The Report refers to a police report of the Individual’s arrest; however, this report is not a part of the record. Ex. 6 at 4.

The Individual told the Psychologist that the money found in his car was “mainly from his drug deals.” Ex. 6 at 4. However, the Psychologist noted that, during the January 2018 PSI, the Individual stated that “the large amount of cash found in his vehicle was from ‘tips’ and not the proceeds from his drug sales.” *Id.* at 4. When the Psychologist asked the Individual about his statements during the PSI that the money was from tips, the Individual stated that “some of it was but that most of it was from selling marijuana.” Ex. 6 at 4. The Psychologist interpreted the Individual’s explanation to mean that the Individual was indicating that “he had been sort-of-honest.” *Id.* The Individual told the Psychologist he had not used marijuana since this arrest. *Id.*

The Individual additionally provided details of his August 2021 DUI during the evaluation.⁵ Ex. 2 at 4-5. The Individual told the Psychologist he “had broken-up with his girlfriend and felt ‘sad and depressed.’” Ex. 6 at 5. The Individual stated that, the night before his arrest, he consumed four whiskey drinks and three to four beers over the course of four hours. *Id.* The following morning, the Individual drove to another location, where he “drank three to four mimosas,” and although he felt “buzzed,” he continued to drive while consuming two hard seltzer drinks. *Id.* The Individual stated that he “was feeling so depressed that he ‘didn’t care about anything, laws, getting hurt, nothing...[he] was just very depressed.’” *Id.*

The Individual explained he pled guilty to this offense,⁶ and, as a part of his sentence, he was required to abstain from alcohol for 18 months, serve 18 months of probation, install an interlock device in his car,⁷ and participate “in an intensive outpatient alcohol treatment program (a ‘Level 1’ IOP).”⁸ Ex. 6 at 5.

Regarding his alcohol treatment program, the Individual told the Psychologist that, at the time of the evaluation, he was participating in his sixth week of a 16-week counseling program, which consisted of “three hours of classes” and one hour of individual counseling, once a week. Ex. 6 at 5. The Psychologist opined that the Individual’s program was not a “full IOP” as it was “weaker than programs meeting the full IOP standards of the American Society of Addictive Medicine (ASAM).” *Id.* at 7. He stated that these standards “reflect the level of treatment intensity found to be effective in treating people with alcohol problems.” *Id.* at 7. The Psychologist also noted that ASAM standards require a minimum of nine hours of therapeutic and educational meetings per

⁵ Portions of the record are inconsistent regarding the exact date of the Individual’s DUI arrest, referencing dates one day apart. *See* Ex. 2 at 4-5; Ex. 12 at 1. Nevertheless, the Individual does not dispute that the arrest occurred.

⁶ At the time of his arrest, the Individual had a Blood Alcohol Concentration (BAC) of .239/.266, which the DOE indicated was “more than twice the legal limit.” Ex. 2 at 4; Ex. 12 at 2.

⁷ The Psychologist noted that as of the date of the evaluation, the Individual had not yet installed the interlock device. Ex. 6 at 5. There is no evidence in the record indicating whether the device had been installed as of the date of the hearing.

⁸ The Psychologist described a “Level 1” program as “a low-intensity outpatient treatment ‘program,’ which includes an evaluation by an alcohol counselor, who recommends further treatment.” Ex. 6 at 5. The Psychologist also stated this program “has little in common with a full IOP.” *Id.*

week, in three-hour sessions, for a period of 12-16 weeks, contrary to the three hours per week in which the Individual engaged as a part of his IOP. *Id.* The Psychologist concluded he did not have confidence the Individual's IOP would "provide a sufficient basis for sustained change." *Id.*

The Individual stated that he had not consumed alcohol since his arrest for DUI, and following the evaluation, the Psychologist asked the Individual to undergo a PEth test, the results of which were negative. *Id.* at 5-7. The Psychologist stated that the negative results supported the Individual's "claim of not currently drinking." *Id.* at 6.

The Report indicated that, during the evaluation, the Individual "appeared very cooperative" and responded to questions "in an undefensive manner." *Id.* at 7. The Report also stated that "there were no indications of impairment in his memory for past events, his ability to concentrate, to grasp questions at the appropriate level of abstraction, or to answer in a focused manner... There were no indications of his impulsively answering, interrupting, or the restlessness that is often ADHD." *Id.*

Ultimately, the Psychologist determined the Individual met the criteria for Alcohol Use Disorder, Moderate in severity, in early remission. Ex. 6 at 6-7. The Psychologist opined that the Individual had not shown adequate evidence of rehabilitation or reformation because the Individual had been abstinent from alcohol for only 4 months and had not yet completed his IOP. *Id.* at 7. The Psychologist recommended the Individual participate in "a full IOP structured with the ASAM standards," 12 months of abstinence from alcohol, supported by negative PEth tests "no less often than every 6 weeks." *Id.* at 8.

During the hearing, the Individual testified on his own behalf. Regarding the MIP, the Individual stated that, although he told the Psychologist that he was charged with an MIP at the age of 16, he did not believe that his recollection of the MIP was accurate and believes the charge never occurred. Tr. at 27-28. The Individual did not dispute the allegations within the Summary of Security Concerns regarding his 2008 arrest. *See id.* at 28-30. He additionally explained the circumstances of his 2021 DUI arrest, which were consistent with the information he had reported to the Psychologist.⁹ *Id.* at 18. Following his arrest, he enrolled in a program, provided through his employer's Employee Assistance Program, which required him to sign a contract stating he would not be involved in any criminal activity and would abstain from alcohol for two years. *Id.* at 19. The Individual explained that, as a part of this program, he underwent urinalysis testing one to two times a week and participated in an outpatient program for 4 months.¹⁰ *Id.* at 21. The Individual additionally stated that he attended the court-ordered IOP group meetings, on a weekly basis, during which he would "talk about triggers...and self-realization." *Id.* at 22-23.

⁹ There was one inconsistency in the Individual's recollection of his court sentence. During the psychological evaluation, the Individual reported that the court required him to abstain from alcohol for 18 months. Ex. 6 at 5. During the hearing, the Individual testified the court required him to abstain from alcohol for two years. Tr. at 19.

¹⁰ Although the Individual referenced both outpatient programs during his testimony, the official name of either program was not provided in the exhibits or during the hearing.

He stated that he now can “see the trigger before it happens” and “avoid the situation.” *Id.* at 26. The Individual also explained that, in addition to weekly IOP meetings, he met with an individual counselor “for at least one hour every week,” a “counselor from work,” between once a month and twice a month, and had the support of his family. *Id.* at 23. The Individual explained that one of the outpatient programs he used helped him realize what his triggers were regarding alcohol and how he makes decisions in his day-to-day life. *Id.* at 23-24, 42-43. The Individual stated one of his biggest triggers was his “impulsive behavior,” which he claimed was a symptom of his ADHD.¹¹ *Id.* at 50.

The Individual also testified he considered participating in an Alcoholics Anonymous (AA) program and contacted someone to serve as his mentor. Tr. at 52-53. He stated the “group setting of the AA” was great, but he felt the use of an individual counselor was “a lot more personable” for him. *Id.* at 53.¹² However, he added that, as of February 2022, he is no longer participating in counseling or IOP, and he maintains his sobriety through “lifestyle changes,” including spending time with his family, focusing on his job, and paying his bills. *Id.* at 51, 71. The Individual testified that he has been abstinent from alcohol for 11 months and intends to never use alcohol again. *Id.* at 20, 22.

Regarding his 2013 arrest for Distribution of a Controlled Substance and the over \$5,600 found in his car, the Individual testified that he had “no idea” how much of the recovered money was derived from his marijuana sales. *Id.* at 79-80. He stated, “I know that I worked as a server, and I had a bunch of money saved up from serving.” *Id.* at 80. The Individual clarified that “a bunch” meant he “had thousands of dollars saved up from serving.” *Id.* He stated he could not provide “a legit number” of marijuana sales he had in the week leading up to his arrest. *Id.* at 81.

When he was asked to explain why he told the Psychologist the over \$5,600 found in his car was “primarily from drug sales,” the Individual stated, “[a]t the time, all of that adding up, I just blurted out what I thought, so – I don’t know...And I think that in my brain with, kind of, my [ADHD] and how I just, kind of, blurt things out or just do things in my mind, it just, kind of, popped in there.” Tr. at 31-32. The Individual stated that, during the psychological evaluation, his mind “just instantly went, okay, it was drug money because, at the time and all of that, I’m not going to remember all of the specifics.” *Id.* at 36. The Individual also stated, “I just mentally think I just blurted out what I thought maybe he wanted to hear on what the first things that came to my brain.” *Id.* at 36-37. The Individual testified that he did not knowingly provide false information to the DOE. *Id.* at 36.

After observing the Individual’s testimony, the Psychologist testified that he had recommended that the Individual participate in “a standard IOP.” *Id.* at 92. The Psychologist explained that

¹¹ During the Psychological evaluation, the Individual reported feeling “sad and depressed” the night before his 2021 arrest for DUI. Ex. 6 at 5. However, the Psychologist determined there was “no evidence that [the Individual’s] use of alcohol is connected to an underlying depressive condition.” *Id.* at 7.

¹² The Individual did not provide any additional information regarding his participation, or lack thereof, in AA.

standard IOP programs include three-hour sessions, several days a week, with group and individual work, which are “much more apt to produce major change” and are “about 60 percent effective” in treating “alcohol problems.” *Id.* at 91-92. The Psychologist stated that he believed the Individual participated in a “weak” IOP; however, he noted that it was not the Individual’s “fault,” because the Individual “didn’t know the difference between” a standard program and a weaker program. *Id.* at 91-92.

The Psychologist also testified regarding his recommendation that the Individual “be permanently abstinent” from alcohol. Tr. at 93. The Psychologist explained that, at the time he made the recommendation, the Individual did not appear to be willing, or able, to commit to permanent abstinence. *Id.* at 93. He also testified that he recommended that the Individual undergo PEth testing every six weeks because the Individual’s level of intoxication was very high, and his alcohol consumption had the potential to negatively affect his health.¹³ *Id.* at 93-94.

The Psychologist stated he was “a little put off” by the Individual’s testimony regarding the money found in the car as the Psychologist felt that the Individual was “recasting...his behavior” during his psychological assessment. Tr. at 94. The Psychologist stated that in explaining why he had over \$5,600 in his car at the time of his arrest, the Individual “did not blurt out [or] impulsively say anything.” The Psychologist reiterated that the Individual did not display “an impulsive kind of response to [the] questions.” *Id.* at 94-95.

The Psychologist stated he heard “some positive things” during the Individual’s testimony, including that the Individual had “reportedly” been abstinent from alcohol for nearly 12 months. Tr. at 96. The Psychologist stated that if the Individual’s report of abstinence were “actually true,” which he “suspect[ed] it [was], then that is good evidence that [the Individual had] gotten some control over this.” *Id.* at 95. The Psychologist also stated that he thought that the Individual’s time of abstinence indicated that the Individual is “probably truthfully able to control his use of alcohol.” *Id.* at 96. However, the Psychologist stated that unless he saw a “lengthy period of time or laboratory evidence,” the Individual’s testimony consisted of “things that anyone can say,” and he would find such testimony “hard to believe.” *Id.* The Psychologist opined that the Individual has, “in essence,” been in sustained remission for 12 months, and if the Individual remained in remission, it would alleviate his concerns with respect to the Individual’s reliability and trustworthiness. *Id.* at 97, 100. The Psychologist opined that, as of the date of the hearing, there was adequate evidence of rehabilitation from the diagnosis of Alcohol Use Disorder, Moderate. *Id.* at 101.

V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the Individual’s eligibility for access authorization, I have been guided by the applicable factors

¹³ The Psychologist indicated that urine testing would not provide evidence of abstinence “due to [the] short window of detection.” Ex. 6 at 8.

prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. After due deliberation, I have determined that the Individual has not sufficiently mitigated the security concerns noted by the LSO under Guidelines G, J, or E of the Adjudicative Guidelines. Accordingly, I cannot find that restoring the Individual's DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this decision are discussed below.

A. Guideline G

Guideline G provides that conditions that could mitigate the security concerns include:

- a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- c) the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

Although the Psychologist determined, after hearing the Individual's testimony, that the Individual had demonstrated adequate evidence of rehabilitation or reformation from the Alcohol Use Disorder, Moderate, and that he was in sustained remission, I cannot find that the Individual has mitigated the Guideline G security concerns. The Individual testified that he has been abstinent from alcohol for nearly one year; however, he has not submitted sufficient evidence into the record to support this testimony.

The Psychologist recommended that the Individual undergo PEth testing every six weeks, for a year, to provide evidence of his abstinence, and he made clear that urine testing would not provide adequate evidence. The Individual submitted one PEth test and approximately weekly urine testing for a period of four months; however, he provided no evidence interpreting the results. *See id.* at ¶ 23(b), (d). This laboratory testing does not span the one-year period that the Psychologist recommended the Individual remain abstinent. Although the Individual testified that he has been

abstinent for approximately a year, he successfully completed a court-ordered IOP and a program through his employer's ECP, he provided no evidence in the form of corroborating testimony or documentary evidence to support these contentions. *See id.* at ¶ 23(d). The lack of corroborating evidence is particularly troubling to me, in light of my assessment that the Individual has not always been candid in his reporting to DOE, as discussed further in my analysis of the Guideline E concerns below. Lastly, assuming the Individual completed his court-ordered IOP, it was not the more rigorous, standard IOP recommended by the Psychologist. Tr. At 91-92; Ex. 6 at 58. As such, I cannot find that the Individual has mitigated the Guideline G security concerns.

B. Guideline J

Guideline J provides that an individual may be able to mitigate security concerns if, in relevant part, "so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment." Adjudicative Guidelines at ¶ 32(a). Additionally, an individual may be able to mitigate the security concerns if "there is evidence of successful rehabilitation, including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement." *Id.* at ¶ 32(d).

Prior to the Individual's 2021 DUI arrest, nearly a decade had passed since the Individual was involved in criminal conduct in 2013. *See id.* at ¶ 32(a). However, his most recent engagement in criminal conduct, driving while under the influence of alcohol, occurred not even a year prior to the date of the hearing, and, as of the date of the hearing, the Individual was still on probation from the 2021 DUI. *See id.* at ¶ 31(c) (stating that an individual may be disqualified from holding a security clearance if he is currently on parole or probation); *id.* at ¶ 32(a). The Individual has not provided sufficient evidence of rehabilitation from the alcohol-related security concerns, as he has not submitted any evidence to support his testimony that he successfully completed an IOP or that he has remained abstinent from alcohol pursuant to the terms of his probation. Because the Individual's DUI is directly related to his Alcohol Use Disorder and the Guideline G security concerns, which he has not satisfactorily mitigated, I cannot find that the Individual has successfully mitigated the Guideline J security concerns.

C. Guideline E

An individual can mitigate security concerns related to dishonesty and lack of candor if, in relevant part, he made "prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts," and "the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment." *Id.* at ¶ 17(a), (c).

Throughout this Administrative Review process, the Individual acknowledged his 2013 arrest for Felony Distribution of Marijuana; however, his explanations regarding the source of the \$5,630 in cash found in his car at the time of his arrest were inconsistent. During his October 2017 and January 2018 PSIs, the Individual maintained that only \$300 of the over \$5600 was the result of drug sales and the rest was attributed to his savings. Ex. 8 at 189; Ex. 11 at 157-159. The Individual then told the Psychologist that the money was “mainly from his drug deals.” Ex. 6 at 4. During the hearing, the Individual testified he had “no idea” how much of the cash was from drug sales, but knew he had money saved from his restaurant job. Tr. at 79-81.

At the hearing, the Individual attributed his inconsistent responses during the psychological evaluation to his ADHD. Tr. at 31. He claimed he “blurt[ed] things out” during the evaluation. *Id.* at 31-32. However, the Psychologist, in his report of the evaluation, indicated that during questioning, the Individual showed no indications of an impaired memory, answered in a “focused manner,” and showed “no indications of [him] impulsively answering, interrupting, or the restlessness that is often observed in people with ADHD.” Ex. 6 at 7. The Psychologist also testified the Individual did not blurt out answers or provide “an impulsive kind of response” to his question. Tr. at 95. Due to the repeated inconsistencies in the Individual’s story regarding the source of the money found in his car at the time of his 2013 arrest, I cannot find that the Individual’s testimony was credible. Insofar as the LSO raised additional security concerns under Guideline E concerning the Individual’s substance abuse, associated legal infractions, and the accompanying poor judgment related to those actions, as I have already determined that the Individual has not mitigated the Guideline G or Guideline J security concerns, that conclusion applies equally with respect to the concerns cited under Guideline E. For the foregoing reasons, I cannot find that the Individual has mitigated the Guideline E security concerns.

VI. Conclusion

After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I have found that the Individual has not brought forth sufficient evidence to resolve the security concerns associated with Guidelines E, G, or J. 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, I find that the Individual’s access

authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth in 10 C.F.R. § 710.28.

Katie Quintana
Administrative Judge
Office of Hearings and Appeals