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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: May 19, 2022	)	Case No.: PSH-22-0089
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Issued: August 30, 2022

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**Administrative Judge Decision**

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Noorassa A. Rahimzadeh, Administrative Judge:

This Decision concerns the eligibility of XXXXX XXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."<sup>1</sup> 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 granted.

**I. Background**

A DOE Contractor employs the Individual in a position that requires him to hold an access authorization. As part of the clearance process, the Individual was required to complete a Questionnaire for National Security Positions (QNSP), which he signed and submitted on January 22, 2021. Ex. 9. When asked, among other things, whether alcohol consumption had ever negatively impacted his work performance within the previous seven years, the Individual indicated that it had. Ex. 9 at 13. He stated that in 2019, he had consumed "a couple beers before" his work shift. Ex. 9 at 13. The Individual stated that his supervisor smelled alcohol about the Individual's person and asked that the Individual submit to a drug test. Ex. 9 at 13. The Individual refused to take the drug test, and as a result, he was terminated from his employment. Ex. 9 at 4, 13. The Office of Personnel Management (OPM) subsequently conducted an enhanced subject interview (ESI) of the Individual on February 16, 2021. Ex. 10 at 60. During the interview, the Individual expounded on his October 2019 termination, stating that his supervisor also felt he was "acting funny." Ex. 10 at 13. The Individual stated that he had consumed alcohol prior to his shift as a result of the distress he was experiencing over the state of his marriage. Ex. 10 at 61.

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<sup>1</sup> The regulations define access authorization as "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). This Decision will refer to such authorization as access authorization or security clearance.

The Local Security Office requested that the Individual complete a Letter of Interrogatory (LOI), which the Individual signed and submitted on November 5, 2021. Ex. 6. As a result of the information provided, the LSO instructed the Individual to undergo a psychological evaluation conducted by a DOE-consultant Psychologist (DOE Psychologist).<sup>2</sup> Ex. 7. In forming her opinions, the DOE Psychologist relied on the information she obtained in the clinical interview with the Individual, as well as her review of the Individual's Personnel Security File (PSF), and the *Diagnostic Statistical Manual of Mental Disorders, 5<sup>th</sup> Edition* (DSM-V). Ex. 7. On January 28, 2022, the DOE Psychologist issued a Psychological Assessment (report) containing her opinions and diagnoses. Ex. 7.

Due to unresolved security concerns, the LSO began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance and that his clearance had been suspended. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline E (Personal Conduct), Guideline G (Alcohol Consumption), and Guideline I (Psychological Conditions) of the Adjudicative Guidelines. Ex. 1. The Notification Letter informed the Individual 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 Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf and presented the testimony of his girlfriend. *See* Transcript of Hearing, Case No. PSH-22-0089 (hereinafter cited as "Tr."). He also submitted nine exhibits, marked as Exhibits A through I. The DOE Counsel submitted ten exhibits marked as Exhibits 1 through 10 and presented the testimony of the DOE Psychologist.

## **II. Notification Letter and Associated 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. That information pertains to Guidelines E, G, and I of the Adjudicative Guidelines. Ex. 1.

Under Guideline E, "[c]onduct involving questionable judgement, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines at ¶ 15. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern is a "[r]efusal to provide full, frank, and truthful answers to

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<sup>2</sup> A Phosphatidylethanol (PEth) blood test was administered in conjunction with the psychological evaluation. Ex. 7 at 6. The PEth test detects "any significant alcohol use over the past three or four weeks." Ex. 7 at 6. The test results registered at 737 ng/mL, which was "congruent with heavy alcohol use." Ex. 7 at 6. The Individual voluntarily submitted to two PEth tests, one in late June 2022 and one in late July 2022. Ex. B; Ex. E; Ex. I.; Tr. at 35-36 Although the June 2022 PEth test result was positive, the July 2022 PEth test was negative. Ex. B; Ex E; Ex. I.

lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.” Adjudicative Guidelines at ¶ 15(b). With respect to Guideline E, the LSO alleged that during the psychological evaluation on January 13, 2022, the Individual indicated that he had last consumed alcohol in September 2021. However, the PEth test results were “positive at a level of 737 ng/mL[,]” indicating “heavy alcohol use and confirmed evidence of regular, heavy drinking in the last three weeks before the test.” Ex. 1 at 1. The LSO also alleged that in the November 5, 2021, LOI, the Individual indicated that he last drank alcohol in January 2021, but he admitted during the psychological evaluation that he consumed alcohol in April or May 2021 and September 2021. Ex. 1 at 1.

Under Guideline G (Alcohol Consumption), “[e]xcessive alcohol consumption often leads to the exercise of questionable judgement or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are “[a]lcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition...regardless of whether the individual is diagnosed with alcohol use disorder[,]” and “[d]iagnosis by a duly qualified medical or mental health professional...of alcohol use disorder[.]” Adjudicative Guidelines at ¶ 22(b) and (d). With respect to Guideline G, the LSO alleged that: 1) the DOE Psychologist diagnosed the Individual with AUD, Severe, and without evidence of rehabilitation or reformation; 2) the Individual submitted to a PEth test in conjunction with the psychological evaluation, the results of which indicated “heavy alcohol use and confirmed evidence of regular, heavy drinking in the last three weeks[;]” and 3) the Individual was terminated from prior employment in October 2019 because he did not submit to a drug test, and “admitted that he had consumed two beers before his shift[.]” Ex. 1 at 1-2.

Under Guideline I (Psychological Conditions), “[c]ertain emotional, mental, and personality conditions impair judgement, reliability, and trustworthiness. Adjudicative Guidelines at ¶ 27. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern is “[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgement, stability, reliability or trustworthiness[.]” Adjudicative Guidelines at ¶ 28(a). With respect to Guideline I, the LSO alleged that the DOE Psychologist determined that the Individual “has difficulty with tolerating shame about his lack of control over drinking which leads him to minimize and be less than forthcoming about his behavior.” Ex. 1 at 2. Further, the DOE Psychologist determined this behavior “calls into question his judgement, reliability, and trustworthiness.” Ex. 1 at 2.

### **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 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 so as 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. Findings of Fact and Hearing Testimony**

In his November 2021 LOI and subsequent testimony, the Individual indicated that he was using alcohol as a way to “cope” with his “failing marriage.” Ex. 6 at 4; Tr. at 69-70. The Individual’s alcohol consumption began increasing in 2017, and “[b]y April 2019, he was having 20 to 25 drinks a week.”<sup>3</sup> Ex. 7 at 5. Although the Individual made attempts to reduce his alcohol consumption, he concluded that he could not do so on his own. Ex. 7 at 5. At the urging of his parents, the Individual sought and participated in treatment from April 2019 to May 2019 but relapsed in October 2019 after experiencing termination from his employment and continued difficulties with his marriage. Ex. 6 at 4; Ex. 7 at 4; Tr. at 39, 71, 74-75. The Individual told the OPM investigator that when he began drinking again, he was consuming “six to seven beers a day[,] five days a week until [October,]” at which point, he discontinued consuming alcohol. Ex. 10 at 63. The Individual testified that before his relapse in October 2019, he spent the month of June in a sober living environment. Tr. at 39, 70, 75. The Individual underwent treatment once more from October 2019 to November 2019, and by the time he was drinking again in February 2020,<sup>4</sup> he was doing so to cope with the fact that his marriage had ended. Ex. 6 at 4, 8; Tr. at 75-76. From approximately February 2020 to April 2020, the Individual attended ten-minute appointments with his doctor “to check up and receive medicine[.]” to assist with his alcohol withdrawal. Ex. 6 at 4; Tr. at 70. He again participated in outpatient treatment from approximately May 2020 to August 2020. Ex. 6 at 4. The Individual resumed drinking in December 2020, and by February 2021, he was drinking “two beers once a week[.]” Ex. 10 at 63; Tr. at 80.

The Individual stated in his November 2021 LOI that he last consumed alcohol in January 2021, when he drank three beers over a five-hour period, but during his January 2022 psychological evaluation, he stated that he had also consumed alcohol “in April or May 2021.” Ex. 6 at 6; Ex. 7 at 4. The Individual also informed the DOE Psychologist that he consumed approximately two glasses of wine in September 2021, but that “he planned to remain abstinent from alcohol because it had caused a lot of problems in his personal life and at work.” Ex. 7 at 4. The DOE Psychologist noted in the report that the PEth test results “were inconsistent with [the Individual’s] report in the

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<sup>3</sup> The Individual stated during the ESI that around April 2019, he was consuming approximately ten beers a day and liquor occasionally. Ex. 10 at 63.

<sup>4</sup> The Individual told the OPM Investigator that he began consuming alcohol again in January 2020 at a rate of “six to seven beers a day[,] five days a week” but stopped drinking again that same month. Ex. 10 at 63.

[clinical interview] that he had stopped drinking regularly and that his last time drinking alcohol was approximately four months before the evaluation.” Ex. 7 at 7.

The DOE Psychologist diagnosed the Individual with Alcohol Use Disorder (AUD), Severe, and opined that the Individual had not shown adequate evidence of rehabilitation or reformation. Ex. 7 at 5; Tr. at 84-85. For the Individual to show adequate evidence of rehabilitation or reformation, the DOE Psychologist recommended that the Individual seek and participate in “chemical dependence treatment” and remain abstinent for “at least three and preferably six months.” Ex. 7 at 8; Tr. at 85. Further, the Psychologist stated that the Individual should provide objective evidence of his ongoing abstinence by taking PEth tests on a monthly basis or submit to “random urine alcohol tests...at his own expense[.]” Ex. 7 at 8; Tr. at 85.

The DOE Psychologist also stated that “[t]here appears to be a strong pattern of denial about his ongoing struggles with drinking.” Ex. 7 at 8. Accordingly, the DOE Psychologist opined that the Individual’s “difficulty tolerating shame about his lack of control over drinking leads him to minimize and be less than forthcoming about his behavior.” Ex. 7 at 9. The Individual’s failure to be completely forthcoming “calls into question his judgement, reliability, and trustworthiness.” Ex. 7 at 9. The DOE Psychologist stated that “[t]his could be remedied to some degree by a return to chemical dependency treatment[.]” and she indicated that the Individual “would benefit from individual psychotherapy” geared toward such things as learning coping mechanisms and taking responsibility for his behavior. Ex. 7 at 9. She stated that the Individual should attend 50-minute psychotherapy sessions on a weekly basis for six months, or until such time as the Individual and his provider feel that “treatment goals have been met.” Ex. 7 at 9.

During his testimony, the Individual stated that he last consumed alcohol on May 23, 2022, and that he began abstaining from alcohol because it was not only hindering his ability to obtain a security clearance, but because he realized his girlfriend “would feel more comfortable” with their relationship if he stopped drinking alcohol. Tr. at 32-33, 36. Further, the Individual decided it would be healthier to abstain from alcohol. Tr. at 33. In the month of May, prior to abstaining, the Individual indicated that he consumed approximately “two to three drinks maybe every other day.” Tr. at 33. The Individual’s girlfriend testified that she last witnessed the Individual consume alcohol in May 2022, and that between October 2021 and May 2022, she saw the Individual consume alcohol approximately twice a week, and had seen him become intoxicated “[a] handful” of times, but denied ever seeing him lose consciousness due to alcohol consumption. Tr. at 16-18. Regarding the Individual’s past alcohol consumption, the Individual’s girlfriend testified that she did express some concern over the amount he drank, as it seemed to be “more than usual for a person.” Tr. at 21-22. The Individual testified that since abstaining from alcohol, he has noticed an improvement in his relationship with his children, and his girlfriend testified that the Individual has been “more present, more alert[.]” which has improved their communication. Tr. at 20-21, 42, 46. Further, since abstaining, the Individual has identified his triggers, which include stressors and a lack of structure. Tr. at 42-43. The Individual testified that he feels he is not in danger of relapse because, before beginning his abstinence, he was consuming less alcohol than he was in 2019, he no longer faces the same stressors he did in the past, and he has “figured out better ways to deal with the stresses that do come along.”<sup>5</sup> Tr. at 41, 51-52. When stressors do occur, he knows he can

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<sup>5</sup> By way of example, the Individual testified that a friend had passed away weeks prior to the hearing, and he was able cope with this particular stressor without consuming alcohol or experiencing any cravings for alcohol. Tr. at 40.

reach out to his parents, his girlfriend, his sponsor and other AA attendees for support, and he practices meditation. Tr. at 43-44, 46-47, 49, 70-71. The Individual also testified that he no longer keeps alcohol in his home. Tr. at 45.

The Individual also began attending in-person AA meetings on a weekly basis on June 27, 2022, for a total of seven meetings.<sup>6</sup> Ex. A; Tr. at 36, 69. A letter from his sponsor, whom the Individual first engaged in June 2022, indicates that the Individual approached him to discuss the difficulties he was experiencing and how those difficulties seemed to relate to his alcohol consumption. Ex. G; Tr. at 69. His sponsor began working with the Individual on the program's "Twelve Steps" for several hours each week, and he described the Individual's participation as "genuine[] and without fear of self-discovery." Ex. G; Tr. at 48. The Individual also testified that he is on step three of the "Twelve Steps," and that he truthfully reported to his AA whether he was consuming alcohol. Tr. at 39, 52. The Individual testified that his goal in AA is to "build a solid foundation in sobriety[.]" and further, he intends to attend AA "indefinitely." Tr. at 44-55.

The Individual also testified, and his girlfriend confirmed, that he began attending virtual therapy sessions with a licensed therapist a couple of weeks prior to the hearing. Ex. H; Tr. at 27, 48, 50. As of the date of the hearing, the Individual had attended two sessions with his therapist and stated that they were in the process of "getting to know each other[.]" Tr. 49. The sessions are intended to address such concerns as his ability to manage stress, regulate his emotions, modify his behavior, and receive support to maintain his sobriety. Ex. H. He also testified that it took him some time to find a counselor who offered sessions he could attend. Tr. at 50-51.

Regarding the inconsistent reports pertaining to his date of last consumption provided in the LOI as compared to the date provided during the psychological evaluation, the Individual admitted at the hearing that he "was trying to downplay the amount of alcohol that [he] was having." Tr. at 54-55, 57. He testified that because he felt that admitting he had consumed alcohol would have been "frowned upon," he decided to "tell a partial truth." Tr. at 55. He confirmed in his testimony that he was attempting "to actively hide[]" the fact that he was still drinking alcohol from individuals involved in the investigation process. Tr. at 55. However, he testified that the statements he provided at the hearing could be trusted not only because of the evidence he provided,<sup>7</sup> but because he "[does not] want alcohol to be affecting [his] life...anymore." Tr. at 56-

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He also testified, and his girlfriend confirmed, that they went on a camping trip with other campers who brought and consumed alcohol. Tr. at 27-28, 41. Although he did state that he thought he would like to have "a couple beers and relax" at that time, he explained that "it [did not] seem important to [him]...to drink." Tr. at 41-42. The Individual's girlfriend testified, and the Individual confirmed, that the Individual is honest with others about his abstinence. Tr. at 29, 45-46.

<sup>6</sup> The Individual had been attending Alcoholics Anonymous (AA) meetings in 2019, but due to the pandemic, in-person meetings were discontinued in 2020. Ex. 7 at 5. At that time, the Individual began attending meetings consisting of a small group of fellow AA attendees, and occasionally attended virtual meetings. Ex. 7 at 5; Tr. at 36-37. In his testimony, the Individual estimated that prior to 2022, he was attending AA meetings at a rate of once a month. Tr. at 37, 67-68. He did not begin the "Twelve Steps" at that time. Ex. 7 at 6; Tr. at 52.

<sup>7</sup> The Individual's supervisor submitted a letter in support of the Individual, indicating that he believes the Individual is "reliable and trustworthy." Ex. C. He also stated that the Individual presents "to work alert, presentable, and fit to perform his duties[.]" and that he has never seen the Individual report "under the influence" of any substance. Ex. C.

57. He did not feel that his judgement was affected by his alcohol consumption at the time he made the statements in question, as he was not consuming alcohol in large amounts in May 2022, and further, he feels that AA and his current sobriety have made him more forthcoming in such situations. Tr. at 58-59.

At the hearing, the DOE Psychologist opined that the Individual had not shown adequate evidence of rehabilitation or reformation, as the Individual had not achieved at least three months of sobriety and his June PEth test was positive, which she felt was inconsistent with his assertion that he had been abstinent since May 2022. Tr. at 88-89. She also testified that regardless of how much time the Individual had been abstinent, his AA attendance and recent counseling was not enough to evidence adequate rehabilitation or reformation. Tr. at 91. The DOE Psychologist also testified that based on the testimony provided, she believed that the Individual's "pattern of minimizing how much [he is] drinking" was "ongoing." Tr. at 89. Further, she still held the opinion that the Individual continued to exhibit an emotional, mental, or personality condition (namely, his difficulty tolerating shame regarding his alcohol consumption) which could impair his reliability or judgement. Tr. at 91-92. She described this issue as "longstanding." Tr. at 92. The DOE Psychologist concluded that the Individual's prognosis was poor, as she did not "have any indications that he [was] on a stable path toward being abstinent[.]" Tr. at 94.

## V. Analysis

### Guideline E

As noted, Guideline E concerns "[c]onduct involving questionable judgement, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines at ¶ 15. An Individual may mitigate Guideline E concerns if:

- a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

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A letter submitted by the Individual's coworker also echoed this observation, indicating that he has never seen the Individual report to work "under the influence or unable to perform a job." Ex. D. The Individual's coworker also described the Individual as "an honest person[.]" Ex. D. The Individual's girlfriend testified that she would be able to tell if the Individual began consuming alcohol, as she would be able to "smell it[]" and "see it[.]" and further, she believes the Individual would tell her if he began drinking again. Tr. at 24. The Individual's girlfriend also stated that she has never had "questions or issues with [the Individual's] reliability[]" or trustworthiness, and indicated that the individual has not expressed any cravings for alcohol. Tr. at 26, 28-29.

- c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- f) The information was unsubstantiated or from a source of questionable reliability; and
- g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations

Adjudicative Guidelines at ¶ 17(a)-(g).

At the hearing, the Individual acknowledged the fact that he had misrepresented the amount of alcohol he was consuming to the DOE Psychologist during the psychological evaluation, and further, that he misrepresented the date he last consumed an alcoholic beverage in the LOI. He acknowledged that this behavior was the result of a sense of shame over his alcohol consumption. He also testified that he felt so capable of his ability to keep sensitive national security material safe and secure, “that maybe [that was] part of what led [him] to feel like...downplaying the truth was in some way acceptable.” Tr. at 59. However, despite such admissions at the hearing, what the record lacks is any indication that the Individual attempted to correct the misrepresentations prior to being confronted with them. Further, the Individual’s misrepresentations were in the context of the current investigation and pertained to the very matter that posed some concern to the LSO, the Individual’s alcohol consumption. Accordingly, I am unable to conclude that the behavior was remote enough in the past, minor enough, infrequent, or occurred under unique circumstances to suggest that such behavior is unlikely to recur, and therefore, does not cast doubt on the Individual’s current reliability, trustworthiness, or good judgement.

As indicated above, the Individual engaged a therapist prior to the hearing for the purpose of, among other things, obtaining assistance with behavior modification and stress management. Ex. G. As an initial matter, there is no specific indication of which behavior, outside of alcohol consumption, the Individual and his therapist intend to address. Ex. G. Further, as the Individual indicated during the hearing, he has only attended two sessions with his therapist, and those sessions were introductory in nature. Tr. at 49. While I have the Individual’s assertions that he will not repeat his behavior, there is nothing in the record that indicates the stressors or circumstances that caused the misrepresentations have been eliminated by the therapy sessions he attended. Additionally, there is no evidence before me that the therapy sessions have reduced or eliminated vulnerability to exploitation, manipulation, or duress. The Individual also testified that he feels that AA participation has made him more forthcoming about such matters, and further, the record



shows that the Individual had been attending AA meetings once a month prior to undergoing the clearance process. Tr. at 37, 58-59, 67-68. However, if the aforementioned assertion the Individual made regarding his AA participation were true, then the record would reflect more forthcoming behavior from the Individual at the start of the clearance process, which it does not. Accordingly, I cannot find that the Individual has mitigated any of the Guideline G concerns pursuant to the mitigating factors at ¶ 17(a), (c), (d), and (e).

I need not address the mitigating factors at ¶17(b), (f), and (g), as there is no indication that the Individual acted pursuant to instructions from legal counsel or similar individual, that the information came from a source of questionable reliability, that the Individual's behavior was the result of associating with certain persons, or that the statements occurred under circumstances that do not cast doubt upon the Individual's reliability, trustworthiness, judgement, or willingness to comply with rules and regulations.

### **Guideline G**

As noted, Guideline G (Alcohol Consumption) provides that “[e]xcessive alcohol consumption often leads to the exercise of questionable judgement or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Conditions that could mitigate security concerns under Guideline G 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(a)-(d).

As an initial matter, once the Individual received the DOE Psychologist's report in April 2022, he did take action to try to mitigate the Guideline G concerns. Tr. at 61-63, 66. He began attending AA meetings with greater regularity and secured a sponsor, he secured a therapist, he began abstaining from alcohol, he began managing his triggers, and he started to build himself a solid support system. However, I cannot conclude that the Individual mitigated the relevant concerns.

At the hearing, the Individual asserted that he had resolved the relevant concerns pursuant to the mitigating factor at ¶ 23(a). Tr. at 56-57. I cannot agree. While the Individual testified that his maladaptive alcohol consumption was in response to stressful, life-altering events and that he learned how to cope with such stressors, it also remains true that the Individual continued to consume alcohol well into May 2022, despite the problems the Individual identified alcohol had caused in his personal and professional life. Tr. at 78-79. I also find it difficult to conclude that the Individual's maladaptive alcohol use is unlikely to recur. The Individual testified that he had been sober for approximately four months in 2019 before relapsing again, and at the time of the hearing, the Individual had been abstinent fewer than three months. Tr. at 39-40. Despite his assertions that he feels his sobriety will endure this time, the Individual has not spent enough time in a state of sobriety to convince me that he is unlikely to return to maladaptive use. This conclusion is further buttressed by the DOE Psychologist's opinion that the Individual had not yet shown adequate evidence of rehabilitation or reformation. Tr. at 88-89. Accordingly, I cannot conclude that enough time has passed, that the behavior was infrequent, or that it happened under circumstances that are unlikely to recur so as not to cast doubt on the Individual's current reliability, trustworthiness, or judgement.

Although the Individual stated during the hearing that he believes his alcohol use was maladaptive, he has not shown a clear and established pattern of abstinence. And although the Individual has engaged a therapist for the purpose of, among other things, addressing matters pertaining to his alcohol consumption, the Individual does have a previous history of treatment and relapse. Further, there is nothing in the record to indicate that the Individual is making satisfactory progress or that he completed a treatment program, let alone attended any required aftercare. Accordingly, the Individual has not resolved the concerns stated in the Notification Letter pursuant to the mitigating factors at ¶ 23(c) and (d).

### **Guideline I**

As noted, Guideline I (Psychological Conditions) provides that “[c]ertain emotional, mental, and personality conditions impair judgement, reliability, and trustworthiness. Adjudicative Guidelines at ¶ 27. Conditions that could mitigate security concerns under Guideline I include:

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

- d) The past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability;
- e) There is no indication of a current problem

Adjudicative Guidelines at ¶ 29(a)-(e).

As stated above, although the Individual has secured the services of a therapist, there is no indication which specific behavior, other than the Individual's maladaptive alcohol consumption, the therapy intends to address. Ex. G. Further, the Individual had attended only two sessions at the time of the hearing, and the record is bereft of any evidence that the Individual is complying with the treatment plan or that his prognosis is good. Accordingly, I cannot conclude that the Individual has mitigated the Guideline I concerns pursuant to mitigating factor ¶ 29(a) and (b).

Regarding the remainder of the mitigating factors, the DOE Psychologist stated during her testimony that she still held the opinion that the Individual continues to exhibit an emotional, mental, or personality condition that could impair his reliability or judgement. Tr. at 91-92. There is no competent evidence in the record that indicates a recent opinion by a qualified mental health professional that suggests the condition no longer exists or is in remission. Additionally, there is no evidence in the record, from a mental health professional or otherwise, that indicates the Individual's shame "about his lack of control over drinking" and the resulting "less than forthcoming" behavior regarding his alcohol use was temporary or has since been resolved. Tr. at 57. Therefore, the mitigating factors at ¶ 29(c), (d), or (e) are not present in this case.

## **VI. Conclusion**

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines E, G, and I of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Notification Letter. Accordingly, the Individual has not demonstrated that granting 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 granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.



Noorassa A. Rahimzadeh  
Administrative Judge  
Office of Hearings and Appeals