

*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.

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

In the Matter of: Personnel Security Hearing)	
)	
Filing Date: June 9, 2022)	Case No.: PSH-22-0103
)	
_____)	

Issued: September 23, 2022

Administrative Judge Decision

Richard A. Cronin, Jr., 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."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 be restored.

I. Background

The Individual is a contractor employee at a DOE facility and had previously held other positions with different contractors at the facility for which he held a security clearance. Exhibit (Ex.) 7 at 12-17. As a result of misrepresenting his prior alcohol use, the Individual had his clearance revoked in the late 1990s. Ex. 3 at 1; Ex. 7 at 37-38. In 2018, the Individual applied for another position at the facility that requires him to hold a security clearance, and 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 October 31, 2018. Ex. 7. In the QNSP, the Individual disclosed Driving Under the Influence (DUI) charges in September 1993 and May 1999. Ex. 7 at 31-32. He stated in the QNSP that as a result of the 1999 DUI offense, he attended "96 hours of alcohol classes[.]" Ex. 7 at 34. He indicated that he successfully completed the educational program, but he could not remember any details regarding the organization providing the service. Ex. 7 at 34-35.

¹ 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 Individual subsequently underwent an Enhanced Subject Interview (ESI) conducted by an investigator in March 2019. Ex. 8. The Individual stated during the ESI that he could not provide any further information regarding the 96-hour education class he completed, stating that he “did not keep any records of the...alcohol treatment.” Ex. 8 at 7-8. The Individual was granted another security clearance in approximately April 2019. Ex. 7 at 36.

On September 21, 2021, the Individual self-reported that he started receiving treatment at an inpatient treatment facility for his alcohol consumption. Ex. 5; Ex. 6. As a result of the information provided, the Individual was instructed to undergo a psychological evaluation conducted by a DOE-consultant Psychologist (DOE Psychologist).² Ex. 3. In forming his opinions, the DOE Psychologist relied on the information he obtained during the clinical interview with the Individual, as well as his review of the Individual’s Personnel Security File (PSF), and the *Diagnostic Statistical Manual of Mental Disorders, 5th Edition* (DSM-V). Ex. 3 at 3. On December 27, 2021, the DOE Psychologist issued a Psychological Assessment (report) containing his opinions and diagnoses, which included a diagnosis of Alcohol Use Disorder (AUD), Severe. Ex. 3.

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. Ex. 3. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E (Personal Conduct) and G (Alcohol Consumption) 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. He also submitted ten exhibits, marked as Exhibits A through J. The DOE Counsel presented the testimony of one witness, the DOE Psychiatrist, and submitted eight exhibits marked as Exhibits 1 through 8.

² A Phosphatidylethanol (PEth) blood test was administered in conjunction with the psychological evaluation. Ex. 3 at 5. PEth tests detect “significant alcohol use over the past three to four weeks.” Ex. 3 at 5. The Individual’s PEth test results were negative. Ex. 5 at 5. The Individual also indicated in his testimony that he had taken three PEth tests. Tr. at 29. The PEth tests, which were administered in late May 2022, early July 2022, and mid-August 2022, were negative. Exs. H, I, and J.

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 and G of the Adjudicative Guidelines. Ex. 1.

Under Guideline E (Personal Conduct), “[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. With respect to Guideline E, the LSO alleged that: 1) the Individual informed personnel at the inpatient treatment facility that his alcohol consumption increased in 2017, which is inconsistent with what he reported to the DOE Psychologist; 2) the Individual told the investigator during the ESI that he had been consuming one alcoholic beverage two to three times per week, which appeared to be inconsistent with the information he gave personnel at the inpatient treatment facility; 3) the Individual told personnel at the inpatient treatment facility that he had not received any prior treatment or counseling, but stated during the ESI that he had participated in his employer’s Employee Assistance Program Referral Option (EAPRO) after the 1993 DUI charge; 4) the Individual told personnel at the inpatient treatment center that he had never attempted to remain abstinent from alcohol before, but the EAPRO program required that the Individual remain abstinent from alcohol for two years; 5) the Individual completed 96 hours of treatment following his 1999 DUI charge, which he failed to disclose to personnel at the inpatient treatment facility; 6) although the Individual received treatment and/or counseling through EAPRO in 1993 and the 96 hours of treatment he received following his 1999 arrest, the Individual did not seek appropriate treatment in the years during which his alcohol intake increased, creating a security risk; and 7) some additional information the Individual provided to personnel at the inpatient treatment facility was inconsistent with the information he provided the DOE Psychologist. Ex. 2 at 3-5. The LSO’s assertions justify its invocation of Guideline E.

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. With respect to Guideline G, the LSO alleged that: 1) On December 22, 2021, the DOE Psychologist diagnosed the Individual with AUD, Severe, pursuant to the DSM-V; 2) the DOE Psychologist’s report indicated that for two years the Individual was consuming increasing amounts of liquor, reaching approximately 4.4 to 5.25 liters of liquor a week, causing the Individual problems in his professional and work life, and resulting in the “sever[e] impair[ment] of [the Individual’s] judgement, reliability, emotional stability, and trustworthiness”; 3) the Individual checked into a treatment facility on September 21, 2021 and was diagnosed with AUD, Severe; 4) the treatment facility concluded that the Individual was consuming approximately 24 shots of liquor a day, and he did “pose an imminent danger” to those around him while carrying out his official duties; 5) the DOE Psychiatrist indicated the Individual was in very early remission and made recommendations pursuant to this assessment; 6) the treatment facility indicated that the Individual was at severe risk of relapse and recommended outpatient treatment; and 7) the Individual “participated in alcohol treatment, counseling, and education on at least two previous occasions[,]” prior to the revocation of his clearance in the 1990s, suggesting that the Individual should have

known to avoid the misuse of alcohol. Ex. 2 at 3-4. The LSO's assertions justify its invocation of Guideline G.

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 to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 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

At the hearing, the Individual confirmed the two separate DUI charges he received in 1993 and 1999, and stated that he has not operated a motor vehicle in a state of intoxication since 1999, as "98 percent" of his alcohol consumption had taken place in his home. Tr. at 23-24. As indicated above, the Individual's clearance had previously been revoked in the late 1990s because he was less than forthcoming about his alcohol consumption. Ex. 3 at 1. During the ESI, and later in his testimony, the Individual stated that after his 1993 DUI charge, his employer had asked him to seek help from the EAPRO program,³ which required that he remain abstinent from alcohol for two years. Ex. 8 at 8-9; Tr. at 33-34. In his report, the DOE Psychologist stated that the EAPRO required monthly counseling, "then quarterly sessions for an additional year[.]" alcohol testing over the span of twelve months, and abstinence for the two-year duration of the program. Ex. 3 at 3. The report states that the Individual completed the EAPRO program. Ex. 3 at 3. However, during a subsequent reinvestigation, the Individual's then-wife told investigators that the Individual would occasionally consume alcohol on weekends during the two-year abstinence period. Ex. 8 at 8-9; Tr. at 34. This information revealed that the Individual "had evaded the [EAPRO] alcohol testing protocol[.]" and as a result, the Individual's clearance was revoked. Ex. 3 at 3.

³ The Individual testified that he did not disclose the fact that he received treatment through the EAPRO program to personnel at the inpatient treatment facility because "it was not[] in [his] mind." Tr. at 55. Further, he stated, EAPRO was a "monitoring program." Tr. at 55-56.

The Individual also testified that his behavior had been less than forthcoming in the past but denied any recent untruthful behavior. Tr. at 34-36, 45. Additionally, the Individual testified that the 96-hour program he was required to attend after his 1999 DUI arrest was not treatment, but rather, alcohol education. Tr. at 24-25.

The Individual voluntarily sought inpatient treatment for his alcohol consumption on September 21, 2021, and the admission assessment compiled by the provider indicates that the Individual was “moderately hungover” at the first meeting. Ex. 5; Ex. 6 at 1. At the initial assessment, the Individual indicated that he was consuming over three gallons of liquor every week, or approximately 24 shots of alcohol daily for the prior year, and that he had been reported to his supervisor for smelling of alcohol. Ex. 6 at 1, 6-7. He told the treatment provider that he last used alcohol on September 20, 2021. Ex. 6 at 7. He indicated during that session that his alcohol consumption had increased in the previous two months, and that it was interfering with his professional and personal life. Ex. 6 at 1, 5, 8, 11. The Individual testified that on one occasion, he felt poorly at work due to withdrawal symptoms, and as a result, he left. Tr. at 22. The Individual’s wife reported that the Individual had threatened suicide two days prior to the assessment, and although the Individual had tried to manage his alcohol consumption, he admitted that he would drink throughout the day on his days off. Ex. 6 at 1, 7, 11. The Individual testified that his suicidal feelings occurred “right before” entering inpatient treatment. Tr. at 26-27. The treatment provider noted the active withdrawal symptoms the Individual was experiencing, and that the Individual denied receiving any prior behavioral health treatment. Ex. 6 at 2, 7. The Individual was placed on a detoxification protocol for approximately three days. Ex. 6 at 7. The assessment also indicates that the Individual “does pose an imminent danger to self or others due to the dangerous daily alcohol usage while working at [his place of employment.]” Ex. 6 at 7. He was diagnosed with AUD, Severe. Ex. 8 at 9; Tr. at 12.

By mid-October 2021, the treatment provider decided that the Individual’s prognosis was “mostly positive[,]” and recommended that the Individual [c]ontinue with residential substance use treatment and outpatient treatment[.]”⁴ Ex. 6 at 13; Ex. 3 at 5. He also recommended that the Individual attend 90 days of Alcoholics Anonymous (AA) meetings in 90 days and practice his coping skills. Ex. 3 at 5; Tr. at 49-50. The DOE Psychologist’s report indicated that the Individual continued attending AA meetings and completed the 90-day AA meeting recommendation prior to the psychological evaluation. Ex. 3 at 5; Tr. at 49. The Individual also testified that he continues to be an active AA participant, that he attends meetings four days a week, and that he was working the fourth step of the “twelve steps” with his sponsor. Tr. at 13, 19, 74. He also stated that he considers his fellow AA attendees as being part of his support system. Tr. at 44. The Individual testified that he attended one meeting of aftercare, but he said “[t]he place was terrible.” Tr. at 40-41; 49-51. He attempted to participate again, but his calls were not returned. Tr. at 40-41, 52. After leaving the aftercare program following one meeting, the Individual reached out to a second program. Tr. at 41. When the Individual told the person with whom he was speaking that he had been abstinent from alcohol approximately seven months and informed him of his prior inpatient treatment, the Individual was referred to another program, and told, “[o]therwise, [b]rother, just keep doing what [you are] doing.” Tr. at 41-42.

⁴ The DOE Psychologist ascertained that the residential treatment to which the inpatient treatment provider referred was actually “a [once-a-week] group meeting or aftercare.” Ex. 3 at 5.

The Individual testified that prior to 2017, he would consume approximately one or two drinks on a work night and about four to five drinks each day of the weekend. Tr. at 22-23. He indicated at the hearing that this was his pattern of alcohol consumption for approximately ten years. Tr. at 23. The Individual disclosed to the inpatient treatment provider that “he drank a lot after [his prior wife’s] death [in 2017], and about one month later[,] he was laid off from work and ‘hung out at home and drank.’”⁵ Ex. 6 at 12; Tr. at 16, 22. During his testimony, he indicated that he tried to reduce his consumption in 2018. Tr. at 16, 53-54. He reported to the treatment provider that he reduced his alcohol consumption after securing another job. Ex. 6 at 12. Regarding his alcohol consumption in March 2019, the Individual told the investigator during the ESI that he would consume “one alcohol drink two to three times per week while at home” or “out to dinner[.]” Ex. 8 at 8. At the hearing, the Individual stated that he informed the investigator that he was consuming less alcohol “than [he] used to.” Tr. at 53-54. Further, he indicated to the investigator that he would only consume alcohol to intoxication approximately six times per year. Ex. 8 at 8.

The Individual informed the DOE Psychologist, and stated in his testimony, that his alcohol consumption increased in late 2019 because of personal stressors, and that he was consuming approximately “four to six drinks on Thursdays, Fridays, and Saturday, most weekends.” Ex. 3 at 3-4; Tr. at 17. He stated that it was around 2019 that he noticed he “actually started drinking on work nights.” Tr. at 17. When the pandemic began, the Individual stayed home and drank, consuming up to 3.5 liters of liquor a week. Ex. 3 at 4. By July 2021, the Individual stated that he was consuming approximately 5.25 liters of liquor a week.⁶ Ex. 3 at 4. At the hearing, the Individual stated that he was consuming “two to three drinks at night after work, and then on the weekends[,] he] would drink more to intoxication.” Tr. at 16. The Individual testified that when he reported for the psychological evaluation, he had been abstinent for 93 days. Tr. at 12. Regarding the matter of the alleged attempted suicide, the Individual told the DOE Psychologist that he was not going to attempt suicide and he disclosed the strain on his marriage. Ex. 3 at 4. The Individual testified that his prior attempts to remain sober would “last a week or two[,]” and when he would resume drinking, it would negatively impact his behavior toward his wife. Tr. at 14. He also told the inpatient treatment provider that he uses alcohol to cope with specific disagreements he has with his current wife. Ex. 6 at 12-13; Tr. at 46-48.

The Individual testified that this inpatient treatment program lasted 28 days, which he had completed by the time he reported for the psychological evaluation. Tr. at 12-13. He indicated that he found the treatment helpful, as he never believed he would be able to “go a full week without having a drink[,]” and at the time of the hearing, the Individual had been abstinent approximately 11 months. Tr. at 13. The Individual testified that he still utilizes the coping mechanisms he learned and meditates and prays. Tr. at 13, 30. Although the Individual also testified that his wife is not abstaining and that she brings alcohol into the home, he indicated that he does not feel this is an

⁵ The Individual told the investigator during the ESI that he had been unemployed from late 2016 through early 2017. Ex. 7 at 13; Ex. 8 at 6.

⁶ At the hearing, the Individual could not point to a specific reason as to why his alcohol consumption had increased prior to entering inpatient treatment. Tr. at 20. However, he did recount an incident of intoxication over the July 4th holiday that made him believe he was drinking too much. Tr. at 20-21.

issue, and further, his wife supports his sobriety. Tr. at 18-19. The Individual has also received support from his supervisor. Tr. at 32-33. Among his motivations to remain sober, the Individual counts his marriage, his health, and his occupation. Tr. at 21, 28. The Individual testified that he has no intention of consuming alcohol again, and that since abstaining, his marriage and his relationship with his stepson have improved. Tr. at 25-27, 31-32, 75-76. Although the Individual indicated the Part 710 proceedings have caused him stress, he is able to manage his stress and “[it is] not with a bottle.” Tr. at 32.

The DOE Psychologist diagnosed the Individual with AUD, Severe, in early remission, and stated that the Individual was “consistently...drinking to a level that would have severely impaired his judgement, reliability, emotional stability, and trustworthiness[.]” Ex. 3 at 6; Tr. at 63. In his report, the DOE Psychologist did not find adequate evidence of rehabilitation or reformation, and although the Individual had completed an inpatient treatment program, the DOE Psychologist recommended twelve months of abstinence, corroborated by PEth tests taken every six weeks. Ex. 3 at 7. He also recommended alcohol counseling⁷ and that the Individual participate in AA meetings at least five times a week, secure a sponsor, and work the “twelve steps.” Ex. 3 at 7.

Regarding the Individual’s prior dishonest behavior while participating in an EAPRO for his alcohol consumption, the DOE Psychologist stated in the report that the Individual “will likely be inclined to minimize and deny any future consumption from DOE”; hence, the recommendation that the Individual take regular PEth tests. Ex. 3 at 7.

After listening to the Individual’s testimony and reviewing his PEth test results that the Individual submitted into the record, the DOE Psychologist testified that the Individual was on the path to sustained remission, and he acknowledged that the negative PEth test results helped corroborate the assertion that he was abstinent. Tr. at 64-65. The DOE Psychologist also stated that the Individual seemed honest at the hearing and that his concern over the Individual’s honesty “was not just with the program in the past, but he also tried to hide his drinking from his wife in 2021.” Tr. at 68-70. However, based on the honesty the Individual exhibited at the hearing, the DOE Psychologist did not find as great a need for the PEth tests as he indicated in his report, as he believes the Individual was not consuming alcohol. Tr. at 70, 79, 81-82. However, in his testimony, he reiterated his recommendation that the Individual receive counseling. Tr. at 70-71. He acknowledged that the Individual had been abstinent less than a year but stated that “[t]here’s nothing really magical about [twelve months of abstinence] other than it represents a person goes through most of life’s difficulties typically within that year period.” Tr. at 71-72. The DOE Psychologist testified that the Individual is in sustained remission, and that the Individual has shown adequate evidence of rehabilitation or reformation. Tr. at 72, 77-78. Regarding the alleged dishonest behavior and inaccurate answers, the DOE Psychologist testified that the the Individual’s less than forthcoming behavior “[is] not a character issue, the best [he] can determine.” Tr. at 78-80.

⁷ The Individual stated that he had only reviewed the DOE Psychologist’s recommendations as they were presented in the Summary of Security Concerns, which stated that the DOE Psychologist had recommended further treatment. Tr. at 42-43. The DOE Psychologist’s report had recommended “weekly participation in alcohol counseling[.]” Ex. 3 at 7.

V. Analysis

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).

After considering the full record in this case, I find that the Individual has mitigated the stated Guideline G concerns pursuant to the mitigating factor at ¶ 23(b). There are several facts that weigh in favor of mitigation. The Individual recognized his alcohol use had become maladaptive, and voluntarily and proactively took the step of enrolling in an inpatient treatment program, which he completed. Further, the credible testimony indicates that the Individual actively participates in AA, has engaged a sponsor, and he has found a support system in his wife, his supervisor, and fellow AA participants. The Individual also testified that he has learned how to cope with stress in a way that does not involve alcohol, and he has found positive incentives to remain abstinent, like his health and the improvement he has seen in his familial relationships. Additionally, the Individual credibly testified, and the DOE Psychologist believed, that the Individual has remained abstinent from alcohol since September 21, 2021. The Individual has also submitted negative PEth tests for the three months prior to the hearing, which corroborate his claimed abstinence during that time period. Exs. H, J, and I. Importantly, the DOE Psychologist testified that the Individual is in sustained remission and has shown adequate evidence of rehabilitation and reformation. Accordingly, although the Individual is not receiving individual counseling, and has been abstinent for eleven months instead of twelve months, I find that the mitigating factor at ¶ 23(b) is applicable in this case, and accordingly, the Individual has resolved the Guideline G security concerns raised in the SSC.

Guideline E

As noted, Guideline E states that “[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. Conditions that may mitigate Guideline E concerns include:

- 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;
- 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).

As an initial matter, after reviewing the exhibits provided to him, interviewing the Individual, and listening to the Individual’s testimony, the DOE Psychologist opined that he does not believe the alleged inconsistent statements provided by the Individual were the result of “a character issue,” and he found the Individual to be honest during the hearing. Tr. at 68-70, 78-80. I agree with the DOE Psychologist’s assessment regarding the Individual’s honesty. During the course of the hearing, the Individual provided adequate clarification for some of the alleged inconsistencies in this case. For example, the Individual explained that although his alcohol consumption increased from 2017 through 2019, there was a period in 2018 during which he attempted to reduce his consumption, and this was reflected in specific statements he made in the record. Regarding the larger issue of his prior obfuscation of the fact that he was not abstaining from alcohol during the

EAPRO program, the Individual took responsibility for his actions at the hearing. Not only did the behavior occur as far back as 1999, but the Individual has since received treatment for the behavior he was trying to hide, his maladaptive alcohol consumption, and has mitigated the security concerns associated with it. In fact, the same can be said of all the Guideline E concerns in the Summary of Security Concerns, in that the alleged inconsistent statements relate somehow to the Individual's prior maladaptive alcohol use, for which he has since received treatment and, thus, mitigated the associated security concerns. Accordingly, I find that the Individual has mitigated the Guideline E concerns pursuant to the mitigating factor at ¶ 15(d), as the stressors, circumstances, or factors that caused his less than forthcoming behavior have been alleviated through treatment, and this behavior is unlikely to recur due to the Individual's ongoing abstinence from alcohol.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines E and G 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 brought forth sufficient evidence to resolve the security concerns set forth in the SSC. Accordingly, the Individual has 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 be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Richard A. Cronin, Jr.
Administrative Judge
Office of Hearings and Appeals