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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: August 24, 2022) Case No.: PSH-22-0087
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Issued: October 7, 2022

Administrative Judge Decision

Richard A. Cronin, Jr., Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (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 security clearance should be granted.

I. Background

A DOE Contractor employs the Individual in a position that requires him to hold an access authorization. As part of a security clearance investigation, the Individual underwent an Enhanced Subject Interview (ESI) conducted by an Office of Personnel Management (OPM) investigator on June 25, 2021.² Ex. 10 at 61. During the ESI, the Individual disclosed that on one occasion in 2016 or 2017, he was written up by a Resident Advisor in his college dormitory because he had

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.

² The OPM Report, which includes the OPM investigator’s report of the ESI, states that the date of the ESI was June 25, 2021. Ex. 10 at 61. However, a Letter of Interrogatory (LOI) completed by the Individual states that the ESI was conducted on April 20, 2021. Ex. 7 at 1. I need not resolve this discrepancy since it does not affect the reasoning of this decision.

violated the university's policy by having alcohol in his dormitory room. Ex. 10 at 62.³ He also reported to the OPM investigator that his present alcohol consumption pattern as of the date of the ESI was that he would consume alcohol two to three times a week, and he would drink to intoxication two times a week. *Id.* at 64. Based on this information, the Local Security Office (LSO) provided the Individual with a Letter of Interrogatory (LOI), which he completed on August 24, 2021. Ex. 7. Thereafter, on November 2, 2021, the Individual self-reported that he was arrested and charged with Driving Under the Influence of Alcohol (DUI) on October 31, 2021. Ex. 6 at 1. As a result of this information, the Individual was instructed to undergo a psychological evaluation conducted by a DOE consultant Psychologist (DOE Psychologist) in November 2021. Ex. 8. In her report (Report), the DOE Psychologist opined that the Individual habitually consumes alcohol to the point of intoxication twice a month. *Id.* at 6. She concluded that, at the time of the evaluation, the Individual had not demonstrated adequate evidence of rehabilitation. *Id.*

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. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline 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 exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. The Individual submitted 12 exhibits (Ex. A through L) into the record, and presented the testimony of two witnesses, including his own testimony.⁴ The DOE Counsel submitted ten numbered exhibits (Ex. 1 through 10) into the record, and presented the testimony of the DOE Psychologist at the hearing.

II. Notification Letter and Associated Security Concerns

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance, and denied the Individual a security clearance. Ex. 1. That information pertains to

³ Numerous exhibits offered by the DOE contain documents with printed page numbers that are inconsistent with the pagination of the exhibits. This Decision cites to pages in the order in which they appear in exhibits without regard for their internal pagination.

⁴ The Individual's exhibits consisted of: (A) Order history with receipts for PEth tests, (B) Chain of custody forms for PEth tests, (C) PEth test results for bi-weekly PEth tests from June 2022, July 2022, and August 2022, (D) Alcoholics Anonymous attendance form, (E) written statement from the Individual's girlfriend, (F) copy of a text message conversation between the Individual and his attorney, (G) Order of Set Aside or Reinstatement of driver's license, (H) Email correspondence between the Individual and DOE Counsel, (I) medical records, (J) written statement from the Individual's father, and (K) email correspondence from DOE personnel security official to the Individual. Exhibit L, received after the hearing pursuant to my extension of time for the submission of exhibits, is the negative result of the Individual's most recent PEth test that he took on September 8, 2022, prior to the hearing. Ex. L at 1.

Guideline G of the Adjudicative Guidelines. Ex. 1. Under Guideline G (Alcohol Consumption), “[e]xcessive 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. With respect to Guideline G, the LSO alleged that on December 3, 2021, the DOE Psychologist, in her Report, determined that the Individual habitually consumes alcohol to the point of intoxication at a frequency of twice a month, without evidence of rehabilitation or reformation. The LSO also alleged that: 1) On October 31, 2021, the Individual was arrested and charged with DUI; and 2) in 2016 or 2017, the Individual was cited by a Resident Advisor for violating his university’s rules by having alcohol in his dormitory room. The derogatory information cited by the LSO justifies the 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. 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 August 2021, the Individual completed the LOI at the request of the LSO. Ex. 7. He reported that at the time, he was consuming alcohol, on average, two to three days per week. Ex. 7 at 2. He confirmed his statement in the ESI that he became intoxicated two times a week. *Id.* at 3. However, he later reported in the LOI that he became intoxicated zero to one time a week. *Id.*

In an Incident Report (IR) dated November 2, 2021, the Individual reported that he was arrested and charged with DUI on October 31, 2021, after he had consumed alcohol at a “pub crawl” with friends to celebrate Halloween on the evening of October 30, 2021. Ex. 6 at 1. He estimated that he had consumed six alcoholic drinks, mostly light beers, over the course of seven hours, and stopped drinking alcohol at 11:30 p.m. *Id.* He went on to report that a friend drove him back to his car parked at a subway station. *Id.* He reported that when he arrived at the subway station, he

believed that his blood alcohol concentration was under the legal limit, so he attempted to drive home. He was subsequently stopped by a police officer who administered a breathalyzer test and a field sobriety test, and arrested him for DUI. *Id.* at 1–2.

As stated above, due to unresolved security concerns arising from the Individual’s alcohol use, the Individual underwent an evaluation with the DOE Psychologist on November 17, 2021.⁵ Ex. 8. In forming her opinions, the DOE Psychologist relied on the information she obtained during the clinical interview with the Individual, as well as her review of the Individual’s Personnel Security File (PSF), including the ESI, the LOI, and the IR. *Id.* at 3. During the evaluation, the Individual reported that he drank alcohol at social events with friends, consumed alcohol once a week to once every other week, and that, depending on the event, he usually had one to four drinks over four hours. *Id.* at 3. He stated that the most alcohol that he consumed in a day was eight alcoholic drinks. *Id.* at 4. The DOE Psychologist stated that while the Individual “was forthcoming about his drinking behavior” during the evaluation, there were some discrepancies in his reporting on his ESI and LOI as compared with what he reported at the evaluation. *Id.* at 3, 6. When asked what he would do differently now that he had received a DUI, the Individual responded that he would exercise in the gym in the morning instead of the evening, so that he would stay at home in the evening rather than consuming alcohol with his friends from the gym. Additionally, the Individual stated that he would be more careful when he drives. *Id.*

As part of the evaluation, the Individual underwent a phosphatidylethanol (PEth) test, which came back positive at a level of 174 ng/mL. *Id.* at 5. A medical doctor reviewed the results and found that the level was “congruent with significant alcohol consumption.” *Id.* at 17. The doctor’s report stated that “a PEth of 141 ng/mL was correlated with four or more standard drinks a day, and was considered the threshold for excessive drinking...” *Id.* The DOE Psychologist stated that “[f]ive or more servings for an adult male constitutes binge drinking.” *Id.* at 5. The DOE Psychologist

⁵ The DOE Psychologist stated that the Individual had canceled his original November 3, 2021, appointment for his DOE Psychologist evaluation 15 minutes before it was supposed to start, because he stated that he was in pain from kidney stones. Ex. 8. at 4. When asked about the cancellation, he stated “it was [zero percent] due to the DUI.” Ex. 8 at 4. The evaluation was rescheduled on November 17, 2021. *Id.* In her analysis of the Individual’s alcohol consumption behavior, the DOE Psychologist’s report stated that the Individual met the definition of habitual drinking, and that “it may have affected his reliability in that he did not appear for his psychological evaluation at the appointed time. Ex. 8 at 5. Her report then stated, “By his account, the two events were unrelated. On the other hand, kidney stone flareups can be associated with excessive alcohol consumption.” Ex. 8 at 5.

To address the statements in the DOE Psychologist’s Report about the Individual’s cancellation of his November 3, 2021, evaluation, the Individual submitted medical treatment records that showed that on November 3, 2021, he was treated at an urgent care facility for a new nonobstructing left renal stone, which was verified through findings from CT imaging. Ex. I at 4. The Individual also submitted a signed statement from his father. The father stated that on November 3, 2021, the Individual called him while he was on his way to his DOE psychological evaluation, and indicated he was in pain, however, he was conflicted about whether he should still attempt to attend the DOE psychological evaluation. *Id.* The father stated that the Individual expressed that he was confident, based on his experience with kidney stones and the familiar pain, that his pain was caused by another episode of kidney stones. *Id.* The father advised the Individual to proceed to an urgent care facility and advise the DOE Psychologist of his kidney issue. *Id.* The father also stated that he assisted the Individual by providing him with the address of the nearest urgent care facility and provided him with driving directions. *Id.* After reviewing the above evidence, the DOE Counsel stipulated to the fact that the Individual “missed his November 3,[2021,] evaluation due to a kidney stone attack rather than missing it because of overconsumption of alcohol.” Transcript (Tr.) at 28.

further stated, “His laboratory results were consistent with regular binge drinking, which would be on the upper end of the range of alcohol consumption that he reported. He stated that he consumed as much as six to eight servings of alcohol in one day twice a month.” *Id.* at 5. *Id.* at 5.

Ultimately, in her Report, the DOE Psychologist concluded that the Individual “has habitual use of alcohol such that he drinks to the point of intoxication at a frequency of twice a month.” *Id.* at 6. She explained that the Individual appears to have limited insight into the fact that his drinking behavior is problematic. *Id.* at 5. The DOE Psychologist recommended that for the Individual to demonstrate rehabilitation or reformation, “He should participate in chemical dependency treatment for at least three months, and preferably six months, and demonstrate that he can maintain moderate drinking by producing monthly PEth tests showing minimal to moderate levels of drinking at his own expense for six months.” *Id.* at 7. She further stated that if the Individual is not able to maintain moderate drinking, then he should change his goal to abstinence, and demonstrate his abstinence by producing negative test results on random urine alcohol testing twice a month for six months. *Id.* at 7.

Prior to the hearing, the Individual submitted a written response addressing the inconsistencies noted by the DOE Psychologist regarding his reports about his quantity and frequency of alcohol consumption in the ESI, LOI, and evaluation. Ex. 2 at 3. In that response, he stated that the time periods between the ESI, LOI, and his evaluation with the DOE Psychologist reflect a time span of over five months. *Id.* He asserted that during that time frame, his amount and frequency of alcohol consumption fluctuated and he was trying to give the most accurate account of his current alcohol consumption at the different time periods when he was asked about it. *Id.* He also explained that since he had started trying to lose weight in the time period between the ESI and the psychological evaluation, he had been periodically decreasing his alcohol consumption because alcohol is high in calories. *Id.*

At the hearing, the Individual admitted that he has recognized, in hindsight, that during the period prior to his DUI arrest, his alcohol consumption was excessive. *Id.* at 36. He asserted that after his DUI, he began reducing his alcohol consumption. *Id.* at 39. He further asserted that he had minimal alcohol use between October 31, 2021, and the date of his November 17, 2021, psychological evaluation. *Id.* at 39, 40. The Individual testified that from November 17, 2021, until he received a copy of the DOE Psychologist’s Report on April 5, 2022, he estimated that he consumed one alcoholic drink every three to four weeks. *Id.* at 43. The Individual testified that he did not receive a copy of the DOE Psychologist’s Report until April 5, 2022, when a DOE official sent him an email which outlined the security concerns regarding his eligibility for access authorization, and included a copy of the SSC and the DOE Psychologist’s Report. *Id.* at 40–41. The Individual submitted as a hearing exhibit a copy of the April 5, 2022, email correspondence from the DOE official which included the SSC, and the DOE Psychologist’s Report. Ex. K.

The Individual asserted that when he received and read the DOE Psychologist’s Report on April 5, 2022, the DOE Psychologist’s conclusions were a “wake-up” call for him. Tr. at 42, 45. He stated that prior to receiving the Report, he had never received any insight into or evaluation of his alcohol consumption. *Id.* at 45–46. When he read the Report’s conclusions about his alcohol consumption, it was “hard not to...get...worried or scared about” how his alcohol use was getting close to the point where it was much worse, or “how bad it was already.” *Id.* at 46–47. He testified

that this led him to change his behavior, and on the same date that he read the Report, he attended his first AA [Alcoholics Anonymous] meeting. *Id.* at 47. To corroborate his testimony, he submitted his AA attendance form which included a signature by the AA meeting chairperson dated April 5, 2022. Ex. D.

The Individual's AA attendance form also contains a signature verifying his attendance at an April 8, 2022, AA meeting; however, there is a subsequent two month gap until his attendance verification on June 28, 2022. *Id.* The Individual asserted that he had continued to attend AA meetings approximately two to three times a week between April through June 2022; however, he was not recording his attendance because he was not aware at that time that he needed evidence for the hearing. Tr. at 57–59. He testified that when he attended his first two AA meetings in April 2022, he had never previously attended an AA meeting and did not know what to do at the meeting. *Id.* at 57–58. When other AA members learned that this was his first meeting, they gave him an AA attendance form, so he obtained verification signatures. *Id.* at 57–58. He said that, because the AA meetings were for his benefit, he focused on the things he was learning in AA and how to put the lessons learned into practice, which he thought was sufficient evidence of his attendance at AA. *Id.* at 58. He asserted that he only began to realize that he needed to provide evidence to present at the hearing after he spoke to DOE Counsel during a phone call on June 23, 2022. *Id.* at 49, 58. He stated that the DOE Counsel informed him about what to expect during the administrative hearing and the need to obtain evidence for his case. *Id.* at 49–51. The Individual indicated that subsequent to that conversation, he began consistently obtaining evidence including attendance at his AA meetings. *Id.* at 58. To support his testimony, the Individual submitted a copy of the email exchange dated June 23, 2022, between himself and the DOE Counsel regarding the Individual's request to discuss his case with the DOE Counsel. Ex. H. Further, the Individual's AA attendance form reflects that the Individual obtained signatures verifying his attendance at AA meetings from June 28, 2022, through August 29, 2022, and that during that time period he was attending AA meetings two to three times per week. Ex. D. The Individual testified that there were some additional AA meetings that he attended but did not record on his attendance form, especially after August 29, 2022, including meetings that he attended after he submitted his exhibit notebook for the hearing. Tr. at 59.

The Individual testified that he plans to continue attending AA meetings. *Id.* at 59. He explained that although he has not been doing any “step work” with the AA steps, he finds that he benefits from his participation in AA. *Id.* at 60. He stated that while some attendees believe that the only way to get better is to “do step work...with a sponsor,” there are other people such as himself who like to attend AA because of the comfort provided from participating in AA meetings. *Id.* The Individual further stated that it feels good to be in a group of people in AA with whom he can share regarding their common afflictions. *Id.* He finds that listening to some of the things that they share in meetings is therapeutic for him, and powerful because it is a constant reminder to him of “how much worse things could have gotten if [he] didn't take the actions that [he] took to get better.” *Id.* The Individual also testified that his brother went with him to his first AA meeting, and has since attended several meetings together with him, which the Individual finds helpful because his brother has been participating in AA and has been sober for over 11 years. *Id.* at 72. The Individual stated that he regularly speaks to his brother about some of the concepts that are discussed during AA meetings. *Id.*

The Individual provided examples of specific coping skills and strategies that he has learned from AA. *Id.* at 77–78. He explained some of the acronyms used in AA that teach specific concepts that he finds helpful, such as “R-I-D which is restless, irritable, and discontent,” and how this concept and others have taught him to have a greater awareness of factors that are going on within himself that may negatively affect his thoughts and actions. *Id.* at 78–79. He asserted that he employs these acronyms to examine his thoughts, feelings, and external factors that are affecting him, so that he takes inventory to identify whether there are any factors, such as not eating or only sleeping a couple of hours at a time, which could compromise his ability to think in a levelheaded manner. *Id.* at 78–79. Further, to illustrate his progress in implementing concepts he has learned from AA, the Individual testified regarding a recent incident that he found to be highly emotionally upsetting, which he successfully handled without consuming alcohol. *Id.* at 79–80.

The Individual asserted that following his phone conversation with the DOE Counsel in June 2022, he realized that he needed objective evidence, and immediately began taking PEth tests twice per month beginning in late June 2022, and he never missed a single bi-weekly PEth test since the end of June 2022. *Tr.* at 48–49, 52. In support of his assertions, the Individual submitted six PEth test results from the tests he took on June 29, July 14, July 29, August 12, August 25, and September 8, 2022, and all test results were negative. *Ex. C; Ex. L.*

The Individual stated his last use of alcohol was four or five weeks prior to the hearing, when he consumed one beer at a family gathering. *Tr.* at 61. He asserted that in the six months prior to the hearing, he had a total of three to four alcoholic drinks at most. *Id.* He stated that he plans to maintain this level of decreased alcohol consumption in the future, and specified, “a frequency of...a couple of beers or a few beers every six months seems...appropriate.” *Id.* at 65–66.

The Individual asserted that as a result of decreasing his alcohol consumption, he has experienced measurable, positive changes in his life. *Id.* at 73–74. His relationship with his long-term girlfriend has improved in that they spend more quality time together doing healthy activities such as cooking together, exercising, and traveling. *Id.* at 73–74. The Individual’s girlfriend submitted a written statement in which she attested that since the Individual began following the DOE Psychologist’s recommendations, she has noticed changes in him such as he no longer goes to bars, has lost weight, and has taken up new hobbies and interests such as golfing and motorcycles. *Ex. E.* She further stated that the two of them are spending more time together doing activities that do not involve alcohol. *Id.* The Individual stated that by decreasing alcohol, he has lost over 15 pounds, he feels more financially secure because he no longer spends money on alcohol, and he frequently goes mountain bike riding with his father, and places more value on the quality time he spends with his father. *Id.* at 74–75.

Regarding his October 2021 DUI, the Individual testified that he received an Order to Set Aside or Reinstatement from the Department of Motor Vehicles (DMV) which indicated that the DMV will not be suspending his driver’s license. *Tr.* at 31–32. In support of his testimony, the Individual submitted a copy of the DMV Order dated November 12, 2021, which stated that “after a review of the information on file..., the action(s) effective December 21, 2021, pursuant to [Section] ...of the Vehicle Code is set aside...” and the Individual “may retain any valid license which [he has] in [his] possession.” *Ex. G.* The Individual also testified that his attorney told him that the District Attorney (DA) would not be proceeding with the DUI charges, however, the DA was not willing

to provide written documentation of this decision. Tr. at 35. He also submitted a copy of his text message conversation with his attorney, in which his attorney stated that the DA “[said] on the phone they have reviewed the case and declined to file charges...[and] have made that data entry in their system.” Ex. F at 2. The attorney’s text message further stated the DA will not put that statement in writing because “that decision is revocable at their discretion until the statute of limitations expires and they can’t file charges.” *Id.* at 1.

The Individual’s older brother testified that he grew up in the same house as the Individual, he currently speaks to the Individual nearly every day, and he sees him in person approximately one to three times a month. *Id.* at 13–14, 16, 22. He stated that he was aware of the DOE’s security concerns about the Individual’s alcohol use. *Id.* at 14. The brother testified that after the Individual read the DOE Psychologist’s Report, the Individual spoke to the brother and told him that one of the recommendations was that the Individual attend an alcohol recovery program. *Id.* at 14–15. The brother stated that he is a member of AA and has been attending AA for 11 years, so he and the Individual started attending AA meetings together. *Id.* at 15.

The brother testified regarding his own recovery and stated that he used to engage in very heavy drinking, and was once hospitalized for organ failure, but he finally got better after he started attending AA meetings. *Id.* at 16, 24. The brother also testified that he has been sober for over 11 years, and still attends two to three AA meetings every week. *Id.* at 16. He asserted that he and the Individual have attended approximately a dozen AA meetings together since the Individual began attending AA. *Id.* He and the Individual have had discussions about some of the ideas that the Individual has learned from AA. *Id.* at 18. The brother stated that the Individual told him that he enjoys attending the meetings and hearing other AA members share their difficulties and the ways they successfully cope with them. *Id.* Regarding the Individual’s current alcohol consumption, the brother further testified that he has seen the Individual drink a total of three or four beers over the course of the last three or four months when they meet together at their parents’ house, and he is aware that the Individual has not consumed any alcohol in approximately the last month. *Id.* at 19. The brother also clarified that he and the Individual have visited their parents’ house over a dozen times in the last five or six months, and there were multiple visits when the Individual did not drink any alcohol. *Id.* at 25.

The DOE Psychologist testified that after hearing the Individual’s testimony and reviewing the exhibits, she believes that the Individual has gained insight into the fact that his drinking behavior was problematic. *Id.* at 95. She also testified that her concerns about the Individual’s delay in not taking action regarding her recommendations until April 2022 are alleviated partially by the fact that the Individual did not receive her Report until that time. *Id.* at 96. In addition, the DOE Psychologist explained that while the Individual had received and read her Report in April 2022, but did not start taking PEth tests until a couple of months later, she believes his testimony regarding the reasons he provided for not obtaining PEth tests immediately after reading her Report. *Id.* at 96–97. She concluded that she found his testimony believable regarding his assertions that he was not aware until he was informed by the DOE Counsel that he needed to obtain objective evidence to support his case. *Id.* at 96-97. The DOE Psychologist asserted that belief as to the Individual’s testimony is based on the fact that given the Individual’s young age, she found it believable that he did not have a lot of experience with the “legal system,” so that his assertions that he initially was not aware that he had to obtain evidence to support his case for the

hearing was conceivable. *Id.* at 96–97. She noted that his first PEth test was in June 2022, and PEth tests cover alcohol consumption for the last three to four weeks from the date of the test. *Id.* at 96. She concluded that given the Individual’s negative PEth test from June 2022, this shows objective evidence that he has not been drinking alcohol excessively from May 2022. *Id.* at 96. Moreover, she concluded from the Individual’s testimony and the testimony of his brother suggests that the DUI was a wake-up call to the Individual and that as a result he decreased his alcohol consumption. *Id.* at 96.

The DOE Psychologist further opined that the Individual has put forth sufficient evidence of rehabilitation. *Id.* at 101. She stated that the Individual’s AA attendance verification coupled with his testimony shows that he began attending AA meetings in April 2022, and she found his assertions credible, that he was attending AA meetings since April consistently, despite the gap in signatures until June 2022. *Id.* at 99. The DOE Psychologist further concluded that she is satisfied that the Individual has been getting the chemical dependency treatment that she recommended. *Id.* at 100. She based her opinion on the fact that she sees a lot of changes in him, and that his testimony about the specific coping skills that he has learned from AA are consistent with the same concepts she is aware of based on her knowledge and work with people in substance abuse treatment programs. *Id.*

Further supporting her determination, the DOE Psychologist testified that the Individual’s PEth test results show that he is not engaging in binge drinking as evidenced by consumption of five or more alcoholic drinks on any given day more than once per month. Thus, in her opinion, the Individual does not meet the criteria for habitual drinking. *Tr* at 101–02. Moreover, the DOE Psychologist concluded that the Individual has shown that he has found ways to be social without consuming alcohol, and there is no evidence to suggest that he has any kind of mood disorder or mental health condition. *Id.* at 102.

V. Analysis

The adjudicative process is “an examination of a sufficient period and a careful weighing of a number of variables of an individual's life to make an affirmative determination that the individual is an acceptable security risk. This is known as the whole-person concept.” Adjudicative Guidelines, Appendix A at ¶ 2(a) All available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a national security eligibility determination. *Id.* Each case must be judged on its own merits. *Id.* at ¶ 2(b).

Specifically, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if:

- (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 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 acknowledged at the hearing that the frequency and quantity of his alcohol consumption prior to his DUI was excessive. Moreover, the totality of the evidence supports that the Individual has complied with the DOE Psychologist's treatment recommendations. He testified that he has been attending AA meetings since April 2022, and submitted supporting attendance records that reflect that he has been attending AA meetings for at least three to four months. His brother's testimony supported the Individual's assertions of AA attendance. Specifically, the brother, a long-time AA member with 11 years of sobriety, testified that he has accompanied the Individual to a number of AA meetings. The Individual has also shown that he has learned how to employ the concepts he learned in AA to successfully cope with upsetting situations in a way that does not involve alcohol. He has also found positive incentives to maintain his modified consumption, like his increased weight loss, increased financial security, and the improvement he has seen in his relationship with his family and his girlfriend. Further, he asserted that once he received the Report and its recommendations, it served as a wake-up call that motivated him to further decrease his alcohol consumption significantly.

In addition, the Individual provided credible testimony regarding his alcohol consumption which was well supported by the evidence of his six negative PEth tests which he took every other week consistently from June 2022 through September 2022. Importantly, the DOE Psychologist opined that the Individual no longer meets the criteria for habitual drinking, and has shown adequate evidence of rehabilitation. Moreover, I find that because the Individual has resolved the concerns associated with his habitual drinking, there is little risk of him obtaining another DUI in the future. Accordingly, I find that the mitigating factor at ¶ 23(b) is applicable in this case, and that the Individual has resolved the Guideline G security concerns raised in the SSC.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guideline 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 Summary of Security Concerns. 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 security clearance should be granted. 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