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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 12, 2022) Case No.: PSH-22-0130
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Issued: January 19, 2023

Administrative Judge Decision

Brenda B. Balzon, 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 access authorization should be restored.

I. Background

A DOE contractor employs the Individual in a position that requires him to hold a security clearance. In August 2021, the Individual reported to the local security office (LSO) that on August 13, 2021, he was arrested and charged with driving while intoxicated (DWI). Exhibit (Ex.) 7.² Subsequently, the LSO discovered the Individual had three alcohol-related arrests between 2005 and 2015. Ex. 5. In January 2022, the Individual completed a Letter of Interrogatory (LOI), in which he provided additional details about his alcohol-related arrests and his alcohol consumption. Ex. 8. Due to the security concerns raised by the Individual's LOI responses, the LSO determined the Individual should undergo an evaluation by a DOE consultant psychiatrist (DOE Psychiatrist). Ex. 9. Based on this evaluation, in March 2022, the DOE Psychiatrist opined that the Individual

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 Numerous exhibits offered by 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.

met the diagnostic criteria for Alcohol Use Disorder (AUD), Mild, in early remission, under the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*. Ex. 9 at 9.

In June 2022, the LSO informed the Individual in a Notification Letter and accompanying Summary of Security Concerns (SSC) that it possessed reliable information that raised security concerns under Guideline G (Alcohol Consumption) and Guideline J (Criminal Conduct) of the Adjudicative Guidelines and created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1.

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 LSO submitted eleven numbered exhibits (Ex. 1–11) into the record and presented the testimony of the DOE Psychiatrist at the hearing. The Individual submitted six exhibits (Ex. A–F) into the record and presented the testimony of seven witnesses, including his own testimony.

II. Notification letter and Associated Security Concerns

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as the first basis for its concerns regarding the Individual’s eligibility for access authorization. Ex. 1 at 1. “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. In citing Guideline G, the LSO relied upon the DOE Psychiatrist’s March 2022 determination that the Individual meets the *DSM-5* diagnostic criteria for AUD, Mild, in early remission. Ex. 1 at 1. The LSO also cited the DOE Psychiatrist’s opinion that the Individual “binge consume[s] alcohol to the point of impaired judgement.” *Id.* at 1. Additionally, the LSO cited the Individual’s arrest and charge for DWI on August 13, 2021; arrest and charge for driving under the influence of alcohol (DUI)-Liquor/Drugs/Vapor- and DUI with a BAC of .08 or more on July 23, 2015; an arrest and aggravated DWI charge on September 3, 2011; an arrest and charge for DWI on October 13, 2005; and an arrest and charge on August 2, 1991, for Burglary of a Business in which the Individual admitted to consuming alcohol to intoxication prior to arrest. *Id.* at 1-2. The above allegations justify the LSO’s invocation of Guideline G.

The LSO also cited Guideline J (Criminal Conduct) as a basis for its concerns regarding the Individual’s eligibility for access authorization. “Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” Adjudicative Guidelines at ¶ 30. Under Guideline J, the LSO cited that the Individual was arrested and charged with alcohol-related offenses in 2021, 2015, 2011, 2005, and 1991. Ex. 1 at 2. The LSO also cited the Individual’s arrest and charge on March 13, 1986, for Burglary of a Vehicle. *Id.* The above criminal charges justify the LSO’s invocation of Guideline J.

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 his January 2022 LOI, the Individual provided details concerning his alcohol-related arrests. He disclosed he consumed eight to ten beers in five hours before his August 2021 arrest. Ex. 8 at 2. The Individual disclosed he consumed four beers within three hours before his July 2015 arrest, and he was required to complete "4 to 5 different types" of Alcoholics Anonymous (AA) classes. *Id.* at 3. He disclosed he could not recall how much alcohol he consumed before his September 2011 arrest, and he was required to complete "three different alcohol related classes." *Id.* at 3. The Individual reported that he consumed five beers within three hours before his October 2005 arrest, and he was required to attend "alcohol classes." *Id.* at 4. He also disclosed that he consumed alcohol at two different bars before his August 1991 arrest, and he was required to complete AA classes. *Id.* at 5. The Individual stated he last consumed alcohol on August 13, 2021. *Id.* at 6.

In March 2022, the Individual underwent an evaluation including a clinical interview (CI) with the DOE Psychiatrist. Ex. 9. Following the evaluation, the DOE Psychiatrist issued a Report, detailing his findings. *Id.* According to the Report, the Individual stated he started consuming alcohol at age 18, and as an adult, he drinks in social settings. *Id.* at 3-4. The Individual explained that he has experienced "alcoholic blackouts" after episodes of heavy alcohol consumption. *Id.* at 4. One example occurred at the time of his August 1991 arrest where he passed out in a warehouse and was arrested for burglary of a business because the warehouse had a broken window although he did not recall breaking any windows. *Id.*

During the CI, the Individual reported that after his August 13, 2021, arrest, he was legally required to abstain from alcohol, "follow the conditions of the SMART Praxis Guideline (which included a minimum of two in-office alcohol screens, with a requirement that he have additional supervision

if any of those screens were positive),” and install a camera interlock device in his vehicle.³ *Id.* at 6. The Individual also reported that he saw his probation officer once per month. *Id.* at 6; Ex. 4 at 1.

The Individual also reported in the CI that on August 17, 2021, he underwent a Fitness for Duty (FFD) Evaluation by his employer. Ex. 9 at 6. He reported that he completed six alcohol awareness classes with the Employee Assistance Program (EAP), was continuing his counseling sessions with the EAP Counselor, and attended counseling sessions with a family counseling program. *Id.* at 7. The Individual also reported he had undergone random alcohol testing and monthly Phosphatidylethanol (PEth) testing, with negative results.⁴ *Id.* at 6; Ex. E at 11; Ex. F at 4-6. He also reported that he had last consumed alcohol on August 13, 2021, and did not intend to drink in the future. Ex. 9 at 6.

As part of the evaluation, the Individual underwent a PEth test, which reflected negative results. *Id.* at 8. The DOE Psychiatrist stated that the Individual’s PEth result was “consistent with his self-report that he had been abstinent from alcohol in the month before testing.” *Id.*

Ultimately, the DOE Psychiatrist concluded the Individual met the diagnostic criteria for AUD, Mild, in Early Remission, without adequate evidence of rehabilitation or reformation. *Id.* at 9-10. He found that “the unfortunate pattern for all five of [the Individual’s] alcohol-related arrests is an episode of social drinking with friends that escalates into his excessive drinking and intoxication, leading to significantly impaired decision making.” *Id.* at 9. He also found the Individual “has never chosen to enter into voluntary treatment for alcohol abuse and feels no need to do so.” *Id.* at 11. He found the Individual established he abstained from alcohol for the past seven months, but he noted the Individual’s sobriety “has likely been aided by legal requirements that he abstain from alcohol and by his cooperation with strict laboratory monitoring of this sobriety.” *Id.* at 9.

The DOE Psychiatrist opined that for the Individual to show adequate evidence of rehabilitation or reformation, he needs to desire treatment, and he recommended that the Individual attend outpatient treatment of moderate intensity, such as AA at least once per week, or other treatment regimens such as SMART or individual alcohol abuse counseling. *Id.* at 11. The DOE Psychiatrist further recommended that any treatment should include abstinence from alcohol for one year. *Id.* The DOE Psychiatrist found the Individual’s prognosis for his AUD was fair, and “[i]f [the Individual] continued in voluntary treatment after no longer [being] required to do so by court or employer,” [the DOE Psychiatrist] “would improve his prognosis to good after he achieves his first year of sobriety (dated from the time of his last drink).” *Id.* at 9.

³ The acronym “SMART” was not defined in the Report, however, as stated in a prior OHA decision, a DOE Psychiatrist has defined “SMART” as “Self Management and Recovery Training.” *Personnel Security Decision*, OHA Case No. PSH-22-0064 at 3 (2022).

⁴ A PEth test measures the presence of the PEth molecule, a biomarker of alcohol use, in a subject’s blood. *See Personnel Security Decision*, OHA Case No. PSH-21-0055 at 2, n.3 (2021). As stated in the DOE Psychiatrist’s Report, “PEth can only be made when consumed ethyl alcohol reacts with a compound in the Red Blood Cell (RBC) membrane.” Ex. 9 at 8.

At the hearing, the EAP Counselor testified that as a program counselor, she provides short-term individual counseling services for the Individual's employer and facilitates two alcohol treatment groups. Tr. at 12. She stated that on October 13, 2021, the Individual started her six-week Alcohol Awareness and Education class. *Id.* at 12-13. She explained that the alcohol education class did not require abstinence from alcohol to participate, but the Individual took the class during his FFD evaluation, so she assumed he was required to abstain from alcohol. *Id.* at 13. She stated the Individual attended the class every week, and his participation was excellent. *Id.* at 13-14. She also stated that on January 12, 2022, after the Individual completed the six-week Thursday class, he started attending her Wednesday group, and that group requires abstinence. *Id.* at 14. She stated the Individual was required to self-report that he abstains from alcohol while attending the class. *Id.* at 14-15.

The EAP Counselor further testified that the Individual told her the Wednesday group has given him "a peace of mind," and being able to share and listen to other people's stories helped "set him at peace" when he had experienced stress. *Id.* at 16. She stated the Individual built a rapport with other participants in the group, and he has a support system within the class. *Id.* at 16. She opined that the Individual's prognosis is "excellent," the Individual has expressed his long-term goal to abstain from alcohol, and he does not want to resume any form of drinking. *Id.* at 17. She stated she did not sense any "ambivalence" from the Individual, who she found to be "very clear and committed to his sobriety and his abstinence." *Id.* at 17. She stated the Individual has used the mindfulness skills he has learned, is "aware of certain triggers in his life and how to avoid them, or even if he can't avoid the trigger, what to do." *Id.* The EAP Counselor testified that the Individual also provided many examples during his group of how he successfully maintains abstinence and executes relapse prevention strategies. *Id.* at 18-19.

The Individual's ex-wife testified that she has known the Individual for thirty years and was married to the Individual for twenty years. *Id.* at 22-23. She testified that currently they are friends and that they spend time together such as at family birthday parties. *Id.* at 23, 26. She stated that over the course of her relationship with the Individual, he had DWIs, but she believed the DWIs "were just bad circumstances," and "[i]t wasn't really like [the Individual] had a problem." *Id.* at 23-24. She stated that after the Individual's most recent DWI, she believed the Individual did not "want to go through this anymore," and realized he should not drink anymore. *Id.* at 24. The ex-wife stated the Individual's last drink was when he was arrested in August 2021. *Id.* at 25. She stated she was aware the Individual participated in alcohol treatment programs because they have discussed this, and she has observed that he has made changes including spending more time with his mother, no longer "go[ing] out" as much, and trying to take better care of his health. *Id.* at 29. She stated the Individual is a reliable and trustworthy person even though she is no longer married to him. *Id.* at 27-28.

The Individual's Supervisor testified that he has known the Individual for a year-and-a-half. *Id.* at 33. He stated the Individual is honest, trustworthy, and a good worker. *Id.* at 34-35; Ex. C at 3. He stated the Individual follows all the rules at work, and if he is asked to perform a task that is "out of his scope of work," he notifies his supervisor. *Id.* at 34-35.

The Individual's daughter testified that since the Individual's August 2021 DWI, he has stopped drinking and has told her not to drink a lot or drink and drive. *Id.* at 39-40. She stated she has not seen the Individual drink alcohol in a very long time. *Id.* at 40.

The Individual's co-worker testified he has worked with the Individual for a year and a half. *Id.* at 44. He stated he and the Individual support each other and call each other if either of them needs to talk. *Id.* at 45. He stated he and the Individual were in the same Alcohol Education Class with the EAP Counselor for a period and have become close. *Id.* at 46. He stated that, to his knowledge, the Individual has not struggled with maintaining his abstinence from alcohol, and the Individual is not "going to back to" drinking alcohol. *Id.* at 47-48.

The Individual's brother testified he had concerns about the Individual's drinking a couple of years ago. *Id.* at 53. He indicated that during that time period the Individual was going through a divorce, had financial problems, and "was trying to balance everything for himself." *Id.* The brother testified that he is part of the Individual's support network, and he explained that the Individual confided in him when experiencing life stressors, such as when the Individual previously owned a company and was having financial stressors due to difficulties with paying his employees. *Id.* at 58. He asserted that since the DWI, when the Individual stopped drinking, he has observed that the Individual has stopped "hanging around with his work buddies," is not as agitated, and takes care of his mother. *Id.* at 54.

The Individual testified regarding his arrest for burglary of a business in August 1991. He did not recall what happened before he was arrested. *Id.* at 62. He stated he was 23 years old. *Id.* at 63. He stated he only remembers that he went out with friends, started drinking, changed locations, and continued drinking alcohol. *Id.* at 62-63. He stated his friends left him behind, and he started walking home and walked through warehouses. *Id.* at 63. He stated his sentence was reduced to a misdemeanor, and he was sentenced to probation. *Id.*

Regarding his October 2005 arrest, he testified he believed he went out to a restaurant for dinner, and, shortly after, he "ended up" at a sports bar. *Id.* at 63. He stated he was arrested while driving back to his home. *Id.* at 64. He stated he believed he was sentenced to probation and had to take AA classes. *Id.* Regarding his September 2011 arrest and charge, the Individual stated he started drinking during a camping trip, after which he drove to a store, stopped in a private parking lot to "take a nap," and "ended up falling asleep." *Id.* at 64-65. He stated police officers woke him up and arrested him. *Id.* at 65. He stated that after his arrest, he believed he was required to pay court fees, complete community service, and take AA classes. *Id.* at 65-66.

As to his July 2015 arrest, the Individual testified he went out with a few people from work and had "like three to four beers in a short period of time, maybe three hours or so." *Id.* at 66. He stated he drove on the freeway while intoxicated, and when he took an exit, he "ended up falling asleep on the red light, and that's when I got arrested." *Id.* He stated that after the arrest, he was sentenced to probation, he had to install an interlock device on his car, and he believe he "did a number of . . . classes." *Id.* at 66-67. He stated that the AA classes he took previously did not affect the way he thought about his drinking patterns until now. *Id.* at 67.

He testified that over a year ago, he tried to stop drinking, and was doing well, until the day of the DWI arrest on August 13, 2021. *Id.* at 68. He stated that on that day, a friend invited him to a sports bar, he lost track of how many beers he drank, and he decided to drive. *Id.* at 68-69. He stated that after the August 2021 arrest, he stopped drinking alcohol. *Id.* at 69-70. In support of his testimony, the Individual submitted evidence of seven negative PEth tests from January 2022 through September 2022. Ex. E; Ex. F. The Individual asserted that unlike his prior DWI arrests, his 2021 arrest had a more powerful impact on him because it affected his job, it affected his life, it impacted his health, and it led him to recognize that he needed to make a change. *Id.* at 70.

The Individual stated that the classes he took through the EAP are very supportive, and he is grateful for the classes that were provided to him. *Id.* at 69-70. He indicated that the classes helped him realize and accept his mistakes and recognize that he is getting help to address his issues with alcohol. *Id.* at 74. He stated that when he is out with friends, “they’re going to want you to be drinking[,]” so the most important change that he has made and continues to commit to is “isolation,” which he asserted has enabled him to maintain his sobriety. *Id.* at 70. He stated it is “very hard” to find friends that are on the same page as him, and he keeps to himself. *Id.* at 71. He stated not having “outside friend relationships” is sustainable for him because “friends are only temporary” and he must love himself more than anything. *Id.* at 71.

The Individual stated he participated in family counseling and joined SMART Recovery. *Id.* at 73. He stated SMART Recovery is very similar to the EAP Counselor’s alcohol group, “[i]t’s just different subject and different occasions.” *Id.* at 73. The Individual also submitted a November 21, 2022, letter from his SMART Recovery Licensed Mental Health Counselor (SMART Counselor) who facilitates the SMART Recovery meetings. Ex. D at 8. The SMART Counselor stated that the Individual has participated on a weekly basis since July 19, 2022, “has been an active member who willingly engages with the group . . . [,] is genuine in building relationships with other group members, and always has a thoughtful comment or question to present to the group.” *Id.* She further stated that it has been “a pleasure to have [the Individual] in group meetings as [they] work through . . . skills related to emotional regulation, identifying and understanding triggers, and the creation of relapse prevention plans.” *Id.* He stated he plans to continue attending both the SMART Recovery group as well as the EAP group. *Id.* at 73.

The Individual stated that in the future, if he is “struggling” or at a point where he wants to start drinking again, he will talk to his ex-wife, talk to his brother, and talk to his co-worker. *Id.* at 74. He also stated he does not keep alcohol at home and does not purchase alcohol while shopping. *Id.* He stated he relaxes by doing things that he likes, and he tries to keep himself occupied by completing odd-jobs and working out at a gym. *Id.* at 80.

The DOE Psychiatrist testified that he heard “[a] lot of positive things” during the hearing. *Id.* He stated that in his Report he listed recommendations the Individual should complete to provide adequate evidence of rehabilitation and reformation, and he heard a number of people “showing basically that [the Individual] has done all of the things [he] had recommended.” *Id.* He stated he found the testimony of the EAP Counselor “most impressive,” and “her opinion was especially telling to [him] as a fellow professional.” *Id.* at 89-90. The DOE Psychiatrist stated that the EAP Counselor’s opinion that the Individual had a long-term desire to abstain from alcohol and “looked, to her, to be very clear and committed in that desire,” was “especially influential.” *Id.* at 89-90. He

stated that the Individual made “substantial changes” in the eight months since the evaluation. *Id.* at 90. He also stated he found the Individual’s concern for his job was “a very powerful motivator” related to his drinking that enabled him to comply with the recommendations. *Id.* at 90-91. Additionally, the DOE Psychiatrist stated the Individual’s commitment to PEth testing is additional evidence of his desire to stop drinking. *Id.* at 91.

As to the Individual’s reformation or rehabilitation from his AUD, the DOE Psychiatrist concluded the Individual has “done everything I asked and I would say that, at this point, he has shown adequate evidence of rehabilitation or reformation.” *Id.* at 92. The DOE Psychiatrist also opined that the Individual’s prognosis was “good.” *Id.* at 93.

V. Analysis

A. Guideline G

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.

I find the Individual has mitigated the Guideline G security concerns under ¶ 23(b). The record demonstrates that the Individual recognized that his alcohol use was maladaptive immediately after his August 2021 DWI arrest, as evidenced by the fact that he realized his alcohol consumption was largely triggered by being present around others consuming alcohol in social settings and his inability to drink in moderation in those setting. The record also contains evidence of the significant actions that he has taken to overcome his problem. First, he has taken steps to change his social life by isolating himself from his old friends and avoiding social settings where alcohol is being consumed. Second, he completed a six-week EAP Alcohol Education and Awareness class and demonstrated an impressive level of engagement and tangible progress as attested to by his EAP Counselor. Moreover, he took further action steps by subsequently joining another EAP treatment group that he continues to participate in to ensure maintenance of his abstinence. He also

took the initiative to expand his personal support network by finding an accountability partner who is his coworker and EAP participant. Further, the Individual currently participates in an additional SMART Recovery treatment program, while still participating in his EAP group program. He has earned the positive recommendation from his SMART facilitator, whose written statement corroborates his assertions that he implements the skills that he has learned and continues to develop to support his sobriety. The Individual also credibly testified that, although it has been difficult to find friends that do not drink, he has replaced his social outings with completing odd jobs for others, working out at a gym, spending more time with his family, and working. Moreover, the Individual has also provided objective evidence in the form of negative PEth tests to support his assertions of abstinence.

I also find the Individual has mitigated the Guideline G security concerns under ¶ 23(d). The Individual successfully complied with the DOE Psychiatrist's treatment recommendations. The Individual testified, and provided documentary evidence, that he completed the six-week EAP Alcohol Education and Awareness class. Subsequently, he joined and continues to participate in an additional treatment group with the EAP Counselor which reflects his continued commitment to maintaining his sobriety. The EAP Counselor testified the Individual successfully participated in both of her weekly treatment classes and was clearly committed to maintaining his sobriety, and she gave him an excellent prognosis. In addition, the Individual has continued to participate in weekly SMART Recovery group meetings since July 2022. Further still, he provided objective evidence of his continued abstinence in accordance with DOE Psychiatrist's treatment recommendations. Lastly, the DOE Psychiatrist opined that the Individual showed adequate evidence of reformation and rehabilitation from his AUD and gave the Individual a good prognosis. Accordingly, I find that the Individual has met the mitigating condition set forth under Guideline G at ¶ 23(d).

A. Guideline J

Conditions that could mitigate security concerns under Guideline J include:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) no reliable evidence to support that the individual committed the offense; and
- (d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32.

I find the Individual has mitigated the Guideline J security concerns under ¶ 32(a). It is clear that the root cause of the Individual's criminal activity is his AUD. All of the Individual's criminal offenses, except one arrest in 1986, were a direct result of his maladaptive alcohol use. "Once the Individual resolves the security concerns raised by his use of alcohol, the associated [Guideline J] concerns pertaining to his alcohol-related arrests will also be mitigated." *Personnel Security Decision*, OHA Case No. PSH-22-0085 at 8 (2022); *Personnel Security Decision*, OHA Case No. PSH-13-0062 at 7 (2013). The Individual has remained abstinent since August 2021 and has diligently endeavored to obtain and continue appropriate treatment for his AUD. As his criminal history was inexorably tied to his alcohol consumption, the Individual's strong commitment to his sobriety along with the DOE Psychiatrist's assessment of rehabilitation provides compelling support for the conclusion that his alcohol related criminal behaviors are unlikely to occur. Regarding the 1986 arrest that was not alcohol-related, over 36 years have passed since the Individual's arrest for burglary of a vehicle. Accordingly, I find that so much time has passed since the Individual's remote 1986 arrest without recurrence that it is resolved under ¶ 32(a).

VI. Conclusion

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guidelines G and J of the Adjudicative Guidelines. After considering all of the relevant information, 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, I have determined 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.

Brenda B. Balzon
Administrative Judge
Office of Hearings and Appeals