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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: September 30, 2022 ) Case No.: PSH-22-0141  
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Issued: February 16, 2023

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**Administrative Judge Decision**

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Janet Fishman, 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."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

**I. Background**

A DOE Contractor employs the Individual in a position that requires him to hold an access authorization. In January 2022, the Individual was arrested and charged with Domestic Violence after consuming "three beers, each of which was 16 to 22 ounces, in a six or seven-hour period." Exhibit (Ex.) 1 at 1. The Local Security Office (LSO) subsequently issued a Letter of Interrogatory (LOI) to the Individual, which sought additional information related to the Individual's alcohol-related arrest. Ex. 9. The Individual responded to the LOI in March 2022. *Id.* at 6.

In May 2022, the Individual underwent a psychological evaluation by a DOE-consultant Psychologist (DOE Psychologist). Ex. 10. During the evaluation, the DOE Psychologist conducted a clinical interview of the Individual, reviewed the Individual's personnel security file, including

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<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

reports of the Individual's background investigations, and had the Individual undergo a Phosphatidylethanol (PEth) laboratory test<sup>2</sup> to detect recent alcohol consumption. *Id.* at 2-3.

On May 31, 2022, the DOE Psychologist issued a report (Report) explaining the results of the Individual's evaluation. *Id.* In the Report, the DOE Psychologist wrote that at the time of his January 2022 Domestic Violence arrest, the Individual consumed "about three beers," ranging in size from 16 to 24 ounces, and "maybe also a shot of vodka between noon and 10 PM." *Id.* at 2-3. The DOE Psychologist compared the Individual's reported alcohol consumption to his height and weight. *Id.* at 2. Based upon the Individual's body composition, the DOE Psychologist opined that on the day of the Individual's Domestic Violence arrest, "he consumed the equivalent of approximately 11 standard drinks." *Id.* During his clinical interview, the Individual reported to the DOE Psychologist that he typically consumes "one to two beers twice a week on non-working days," and the last time he consumed alcohol was "two days before the evaluation, when he had two 20-ounce beers, one of which was 5% and the other 9% alcohol content." *Id.* at 3-4. However, the results of the Individual's PEth test were positive at a level of 258 ng/mL, which was consistent with "heavier alcohol consumption than [he] reported." *Id.* at 5.

The DOE Psychologist opined that the Individual had an alcohol use disorder and that he "drinks heavily and has a history of problematic use of alcohol." *Id.* at 5. The DOE Psychologist also opined that the Individual did not demonstrate adequate evidence of rehabilitation. *Id.* The DOE Psychologist recommended that the Individual "attain complete abstinence from alcohol," "attend Alcoholics Anonymous [(AA)] or Narcotics Anonymous [(NA)] meetings at least once a week," and "demonstrate that he can maintain control of his alcohol consumption by producing monthly PEth tests or random urine alcohol tests showing negative findings for at least six and preferably twelve months." *Id.* at 5-6.

Due to the unresolved security concerns related to the Individual's alcohol consumption, the LSO informed the Individual, in a Notification Letter, 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 Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Ex. 1.

In September 2022, the Individual requested an administrative 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. *See* Transcript of Hearing, Case No. PSH-22-0141 (hereinafter cited as "Tr."). The Individual did not submit any exhibits. Counsel for the DOE submitted 15 exhibits, marked as Exhibits 1 through 15, and presented the testimony of the DOE Psychologist.

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<sup>2</sup> A PEth test measures the presence of PEth, a biomarker of alcohol use, in a person's blood. Ex. 10 at 5. When used to measure alcohol consumption, the test can detect "any significant alcohol use over the past three to four weeks." *Id.*

## II. The Summary of Security Concerns

The SSC informed the Individual that information in the possession of the DOE created substantial doubt concerning his eligibility for a security clearance under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Ex. 1. Guideline G states that 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.

Conditions that could raise a security concern under Guideline G include: “[a]lcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder”; “[h]abitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder”; and a “[d]iagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical DOE Psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder.” *Id.* at ¶ 22(a), (c), and (d).

In citing Guideline G, the LSO relied upon the opinion of the DOE Psychologist that the Individual has “an alcohol use disorder and/or does habitually or binge consume alcohol to the point of impaired judgment.” Ex. 1 at 1. The LSO also relied upon the Individual's history of alcohol-related arrests:

1. In January 2022, the Individual was arrested and charged with Domestic Violence after consuming “three beers, each of which was 16 to 22 ounces, in a six or seven-hour period”;
2. In June 2012, the Individual was arrested and charged with Domestic Battery after consuming “an unrecalled amount of vodka drinks and possibly wine prior to the arrest”;
3. In February 2004, the Individual was arrested and charged with Battery on a Police Officer/Emergency Personnel and Obstructing a Public Officer after he “admitted that he was intoxicated after he consumed no more than 10 shots of liquor prior to the arrest”;
4. In June 1993, the Individual was arrested and charged with Disturbing the Peace after he “admitted that he consumed eight to nine drinks including beers and shots of liquor over a four to six-hour period prior to the arrest”;
5. In March 1991, the Individual was arrested and charged with Public Intoxication and Underage Drinking after he admitted consuming “up to six beers in a four to six-hour period prior to the arrest”; and
6. In November 1989, the Individual was arrested and charged with Underage Alcohol Consumption.

*Id.* at 1-2. Based on the conduct noted above, I find the LSO's security concerns under Guideline G are justified.

### III. Regulatory Standards

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *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

During a Personnel Security Interview (PSI) conducted by the LSO in 2012, the Individual reported that he started consuming alcohol at about 12 years old. Ex. 14 at 7. Throughout high school, the Individual's drinking progressed from twice per month to "three to five times a month." *Id.* at 17-19. From 1989 to 1995, the Individual served in the military, during which time he consumed alcohol more heavily. *Id.* at 24-25. The Individual also reported that, while in the military, he would drink to intoxication "most nights" and would drink to the point of "blacking out" a few times a year. *Id.* at 27-28. The Individual had several alcohol-related arrests during his military service. Ex. 15 at 72-73. During an interview with an investigator with the Office of Personnel Management (OPM), conducted in September 2018, the Individual disclosed he "vaguely remembers" being charged with drinking while underage in 1989. *Id.* at 72-73. After his arrest in 1989, the Individual took an alcohol awareness class, called "NANSAP."<sup>3</sup> Ex. 14 at 180. In 1991, the Individual was arrested and charged with being drunk in public twice: in January and March. Ex. 15 at 73.<sup>4</sup> In 1993, the Individual was arrested and charged with Disturbing the Peace

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<sup>3</sup> During the hearing, the Individual was not able to recall the definition of the acronym "NANSAP." He stated this was a military "alcohol support program." Tr. at 52.

<sup>4</sup> The Individual's January arrest and charge for being drunk in public was not cited by the LSO in its SSC. Ex. 1 at 1.

after consuming alcohol and “banging on the door” of a home he erroneously believed was that of a friend. Ex. 13 at 171-173.

The Individual also disclosed in the 2012 PSI that, because of his alcohol-related arrests, he was at risk of being “thrown out” of the military. Ex. 14 at 80-82. The Individual disclosed that while he was in the Navy, he voluntarily entered a “Level III CAC” inpatient alcohol treatment program (CAC Program)<sup>5</sup> for six weeks,<sup>6</sup> during which he attended group and individual counseling sessions. *Id.* at 80-82, 84-85. During the CAC Program, the Individual was prescribed medication “to help keep [him] from drinking.” *Id.* at 84-85. After the six-week CAC Program, the Individual attended AA meetings, two or three times a week, for six months. *Id.* at 86-87, 91. The Individual explained that he would stop drinking for a few months and then he would resume drinking, and he stated this pattern continued throughout his military career. *Id.* at 37-38.

In December 1995, the Individual entered NA after becoming addicted to cocaine and crystal methamphetamine.<sup>7</sup> *Id.* at 59-60, 120-121, 136, 195. The Individual stated that he entered NA for drug and alcohol treatment, participated in the program for eight or nine months, and attended meetings two or three times a week. *Id.* at 198. The Individual disclosed he stopped attending NA after eight or nine months because he got to a point where he stopped using methamphetamine and the program “seemed counterproductive.” *Id.* at 201-202.

In March 2012, the Individual underwent a psychiatric evaluation by a DOE-consultant psychiatrist (Psychiatrist) as part of a security clearance investigation. Ex. 17 at 2. In his report, the Psychiatrist summarized the Individual’s history of alcohol consumption. *Id.* at 5-8. The Psychiatrist wrote the Individual’s history included “alcohol-related arrests,” “unsuccessful efforts to control his use,” “alcohol use that interfered with his responsibilities,” and “tolerance to alcohol.” *Id.* The Psychiatrist also wrote the Individual participated in a “six-month in-house rehabilitation program while in the military” and took medication for six months while in an after-care program. *Id.* at 6, 8. The Psychiatrist’s report also indicated that during the evaluation, the Individual reported drinking moderately, in social settings, and wanting to “live responsibly.” *Id.* at 9-10.

Ultimately, the Psychiatrist diagnosed the Individual with a “History of Alcohol Dependence and Alcohol Abuse, in sustained remission.”<sup>8</sup> Ex. 17 at 9-10. The Psychiatrist concluded the Individual showed “adequate evidence of reformation . . . in that he has used alcohol responsibly and in moderation over the past five years.” *Id.* at 10. The Psychiatrist also concluded the Individual did not require any “formal treatment for alcohol problems at the current time as his past condition is in sustained complete remission.” *Id.*

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<sup>5</sup> During the hearing, the Individual could not recall the meaning of the acronym “CAC.” He stated it was an in-house alcohol program provided by the military. Tr. at 48.

<sup>6</sup> At the hearing, the Individual stated that the CAC Program was six months. Tr. at 48.

<sup>7</sup> In his August 2022 QNSP, the Individual disclosed he illegally used controlled substances, including marijuana, crystal meth, and cocaine, while working as an avionics tech for an airline. Ex. 13 at 32-33.

<sup>8</sup> In making this diagnosis, the Psychiatrist relied upon the *Diagnostic and Statistical Manual of the American Psychiatric Association, Fourth Edition*. Ex. 17 at 2.

The Psychiatrist also found the Individual had not “used any illegal substances for over 6 years” and diagnosed him with a “History of Illegal Poly-substance Dependence and Substance Abuse (cocaine, methamphetamines or marijuana), in sustained remission.” *Id.* at 8-10. The Psychiatrist concluded the Individual showed “adequate evidence of reformation” regarding his substance abuse and did not require treatment. *Id.* at 10.

In his March 2022 LOI, the Individual reported that in January 2022, he was arrested for Domestic Violence after he had an argument with his wife. Ex. 9 at 1. He explained that he consumed three beers, ranging in size from 16 ounces to 22 ounces prior to the argument. *Id.* The Individual also explained that in June 2012 he was arrested for Domestic Battery after consuming an unknown amount of “vodka drinks after dinner.” *Id.* at 4.

In a second LOI in April 2022, the Individual reported that six times a month he would consume two to three beers. Ex. 16 at 3. He also reported that two to three times a year he would consume “vodka mixed drinks containing two and a half ounces of vodka per drink.” *Id.* He also reported that he last consumed alcohol on April 3, 2022, “when he consumed 18 ounces of beer in about 2 hours.” *Id.* Lastly, the Individual reported that he did not believe he has a problem with alcohol and did not need alcohol-related counseling or treatment. *Id.* at 5.

At the hearing, the Individual testified that on the date of the January 2022 domestic incident, he was drinking craft beers ranging in size from 16 to 22 ounces. Tr. at 11. He stated he got into an argument with his wife. *Id.* at 10. The Individual claimed the argument escalated to a point where he and his wife were yelling at each other. *Id.* He asserted that his wife called the police, attempting to defuse the situation, and he was arrested. *Id.* at 10-11. The Individual stated that, before his arrest, he would drink beer “a couple times a week” and “two or three” times during weekends. *Id.* at 12. He asserted that after his arrest, he continued to drink, but after meeting with the DOE Psychologist, “things kind of calmed down in the house,” and he has only consumed two to three beers, ranging in size from 16 to 22 ounces, since that time. *Id.* at 13-14, 17, 20-23. He further stated that since receiving the letter indicating his security clearance was suspended, he has consumed only one or two beers.<sup>9</sup> *Id.* at 13-14, 17. The Individual claimed that every time he had a beer, he felt like he was “doing something wrong.” *Id.* at 14.

The Individual testified that he disagreed with the DOE Psychologist’s conclusions about his drinking habits because he “drink[s] responsibly.” *Id.* at 24-25, 27. He stated, “if I’m drinking and I feel the effects, I discontinue drinking.” *Id.* at 27-28. He claimed, “basically, what [the DOE Psychologist] recommended, is exactly what I did prior to being employed at the [DOE].” *Id.* at 26. He stated he enrolled in NA after his 2004 arrest for Battery of a Police Officer. *Id.* at 49-51. He stated that on the day of the 2004 arrest, he had “ten shots of liquor,” got “severely drunk,” and the incident “made [him] question . . . what [he] was doing.” *Id.* He asserted that he participated in NA classes for eight or nine months and stopped drinking alcohol before becoming employed

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<sup>9</sup> When asked about a change in his drinking habits after his arrest, the Individual responded, “[T]he arrest really didn’t, I mean, we didn’t – there wasn’t a whole lot of . . . purchasing or anything, . . . of beer after that. It wasn’t that we weren’t drinking, but with the mood in the house, we just – we didn’t buy any.” Tr. at 13. In my opinion, the Individual equated purchasing alcohol with consuming alcohol.

with the DOE. *Id.* He maintained that since his participation in NA, he has shown “a great deal” of rehabilitation from his prior drinking habits. *Id.*

As to his PEth test results, the Individual testified that he did not dispute the results of the test. Tr. at 31. He stated the PEth test “measures alcohol consumption and not intoxication” and he no longer drinks to intoxication. *Id.* at 29-31. He also stated that since April 2022, he has consumed “three to five” beers. *Id.* at 32-33.

As to the DOE Psychologist’s treatment recommendations, the Individual specified that he did not follow the recommendation to completely abstain from alcohol. *Id.* at 34-35. He stated he did not attend AA or NA meetings because he “didn’t care for what [he] saw in the rooms” and he “didn’t like the mentality that was in the rooms.” *Id.* at 35-36. He claimed that he was no longer drinking to intoxication and “didn’t feel that those rooms were necessary for where [he is in his] life right now.” *Id.* at 37-38. He said he talks to a counselor with an Employee Assistance Program “once or twice a month” about the issues related to his security clearance. *Id.* at 35-36.

As to the DOE Psychologist’s recommendation that he undergo random PEth testing for at least six months, the Individual stated he did not attempt to obtain a PEth test until January 2023. *Id.* at 43. But even then, he did not actually obtain a test because, according to his testimony, he believed he needed an order from a court or a doctor to have his blood drawn. *Id.* at 43. The Individual also claimed that he was deterred from obtaining a PEth test by the high cost; although, he also stated he did not know how much a PEth test costs. *Id.* at 43-44. He stated that he was going to get the PEth test “after the holidays to show that even through the holidays, you know, I hadn’t been drinking.” *Id.* at 43. The Individual asserted that, “it didn’t seem like the recommendation that [the DOE Psychologist] was giving was a be all end all, this is what you will do or you’re going to lose your clearance . . . I didn’t believe that, you know, I was required to follow that[.]” *Id.* at 43-44.

The Individual testified that in the future, if he does drink, he will not drink to intoxication or get drunk. *Id.* at 45. He stated that when he drinks, he does not drink to a point where he gets drunk and makes poor decisions. *Id.* at 46. The Individual also stated the treatment he received before joining the DOE gave him the ability to make rational decisions. *Id.* He concluded that he is an older man now and there is no way he could drink the way he did in the past. *Id.* at 46-47.

The DOE Psychologist testified that she was unable to determine “whether [the Individual] still has a problematic drinking pattern” because she did not see “independent proof” of the Individual’s alcohol consumption. *Id.* at 55-56. She stated that the Individual’s lack of proof was a concern for her because the results of the Individual’s PEth test in May 2022 indicated he was drinking more than he reported during his evaluation. *Id.* at 56. The DOE Psychologist continued that the “inconsistency or discrepancy between [the] past report of how much he was drinking and how much an independent blood test showed that he was drinking, makes him less credible of a reporter, independently.” *Id.*

The DOE Psychologist also testified that she believed the Individual did not follow her treatment recommendations because he did not think he had a drinking problem, did not think he needed to get any help to change his behavior, and “didn’t need to prove that through independent laboratory results.” *Id.* at 57. She also stated that there is “an element of, perhaps, denial” related to the

Individual's refusal to re-enroll in NA or AA. *Id.* She stated the Individual's history of heavy alcohol use indicates he could relapse into that level of drinking again. *Id.* at 60.

The DOE Psychologist asserted that under the Individual's standard, if he is not blacking out, he does not have a drinking problem. *Id.* at 61. She explained that a person's judgment becomes impaired before they recognize they are drunk. *Id.* The DOE Psychologist said, "[p]art of the, kind of, paradox of alcohol intoxication . . . is that one is less aware of oneself, and so one's judgment about whether or not one is intoxicated is impaired." *Id.*

The DOE Psychologist also testified that she did not have any predictions about what the Individual's alcohol consumption would look like in the future. *Id.* at 64. She stated it is possible the Individual's history of drinking heavily, followed by an encounter with the police, and then abstinence, will continue to repeat itself. *Id.* at 64-65. She also stated it is possible the Individual's experience leading up to the hearing will be "a real wake-up call" and he will not drink regularly or heavily again. *Id.* at 65.

## V. Analysis

The Adjudicative Guidelines set forth four factors that may mitigate security concerns under Guideline G:

- (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; or
- (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.

Regarding factor (a) above, although there was a ten-year period between the two most recent of the Individual's arrests, both of which involved domestic violence or battery, they occurred with enough frequency to raise security concerns. The Individual's behavior is not infrequent enough to mitigate the concern under this factor. Further, the most recent domestic violence arrest occurred only a year prior to the hearing. There is no evidence to support that the alcohol-related arrests occurred under unique or unusual circumstances. The Individual also has a history of participating in treatment, exiting the treatment program, and resuming alcohol consumption. The Individual



admits he did not follow the DOE Psychologist's recommendation to abstain from alcohol and attend NA or AA once per week. Therefore, I find the Individual has not shown that his behavior is unlikely to recur, and he has not mitigated the security concerns under factor 23(a).

Regarding factor (b), the Individual acknowledges his pattern of alcohol consumption, but does not believe his alcohol consumption is a problem. The Individual asserts he can control his alcohol consumption without the use of a treatment program because he no longer drinks "to get drunk." In addition, while the Individual believes he has progressed from his prior drinking habits, during which he would drink until he blacked out, the Individual's last treatment program was decades before this most recent alcohol-related arrest and the DOE Psychologist's diagnosis. There is no evidence the Individual's efforts to control his alcohol consumption have been successful since his prior enrollment in NA and AA.

Although the Individual claimed he has modified his alcohol consumption since his January 2022 arrest, the results of his May 2022 PEth test suggested his alcohol consumption was heavier than the three to five beers he claimed to have consumed since April 2022. Therefore, his self-reporting of his alcohol consumption is unreliable. In addition, the Individual has a history of participating in alcohol treatment and relapsing upon exiting the program.

Furthermore, the Individual has not attended any AA or NA meetings since his 2022 arrest, as he stated he did not feel he would gain anything from participating in those programs. There is no evidence the Individual took steps to find, and enroll in, a treatment program he thought he would benefit from. Lastly, as he has not undergone any PEth testing, there is no laboratory evidence to support that the Individual has abstained from, or lowered his consumption of, alcohol. Without evidence of his participation in an alcohol treatment program or the results of any PEth testing, there is no reliable evidence that the Individual modified his alcohol consumption in accordance with the DOE Psychologist's treatment recommendations. The Individual also did not present any corroborating testimony from family or friends that he has reduced his alcohol consumption. Therefore, the Individual has not mitigated the security concerns under factor 23(b).

Regarding factor (c), as discussed above, the Individual did not follow the DOE Psychologist's recommendations to participate in AA or NA and the Individual also did not undergo six months of PEth testing. The Individual has a history of participating in alcohol treatment programs: an alcohol support program, a six-month inpatient alcohol treatment program,<sup>10</sup> six months of AA meetings, eight to nine months of NA meetings, and another eight to nine months of NA meetings a decade later. Following all those programs, he began consuming alcohol again, showing that he has a history of entering treatment programs and then reengaging in alcohol consumption and related conduct that results in his arrest. There is also no evidence the Individual successfully completed these programs, and his alcohol-related arrests since leaving those programs shows he has been unable to abstain from concerning alcohol consumption without the use of a treatment program. Therefore, the Individual has not mitigated the security concerns under factor 23(c).

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<sup>10</sup> As stated in footnote 5 above, at the PSI, the Individual stated that the CAC Program was six weeks. Ex. 14 at 80. At the hearing, the Individual stated that the CAC Program was six months. Tr. at 48.

Regarding factor (d), as discussed above, the Individual did not participate in AA or NA, as recommended by the DOE Psychologist, and he failed to undergo the recommended six months of PEth testing. This is sufficient to preclude the application of factor (d). Therefore, the Individual has not mitigated the security concerns under factor 23(d).

For the reasons stated above, I cannot find that the Individual has mitigated the security concerns raised by the LSO under Guideline G.

## **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 not brought forth sufficient evidence to resolve the security concerns set forth in the Notification Letter. Accordingly, I find the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I find that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Janet R. H. Fishman  
Administrative Judge  
Office of Hearings and Appeals