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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: October 18, 2022	)	Case No.: PSH-23-0013
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Issued: May 1, 2023

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**Administrative Judge Decision**

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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."<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 be restored.

**I. Background**

A DOE Contractor employs the Individual in a position that requires him to hold an access authorization. On May 16, 2022, the Individual reported to the local security office (LSO) that on May 14, 2022, he was arrested and charged with Simple Assault, Willful Obstruction of Law Enforcement Officers, and Public Drunkenness. Exhibit (Ex. 1) at 2; Ex. 9 at 1.<sup>2</sup> Subsequently, the LSO discovered the Individual had three alcohol-related incidents including two alcohol related arrests between 2002 and 2017. Ex. 3 at 1. The Individual completed a Letter of Interrogatory (LOI) response in June 2022 in which he provided details about his alcohol consumption and alcohol-related arrests. Ex. 10. Subsequently, the Individual was evaluated by a

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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.

<sup>2</sup> 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.

DOE consultant psychologist (DOE Psychologist), who, after conducting a clinical interview (CI) with the Individual, issued a report of her findings (Report) in August 2022. Ex. 11.

After receiving the DOE Psychologist's Report, the LSO informed the Individual in a September 23, 2022, Notification Letter that it possessed reliable information that created substantial doubt regarding the Individual's eligibility to hold a security clearance. In an attachment to the letter (Summary of Security Concerns), the LSO explained that the derogatory information raised security concerns under Guideline G and Guideline J of the Adjudicative Guidelines. 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. At the hearing, the Individual presented the testimony of four witnesses, including himself. *See* Transcript of Hearing (hereinafter cited as "Tr."). The Individual submitted 21 exhibits, marked Exhibits A through U. The LSO submitted thirteen numbered exhibits, marked Exhibits 1 through 13, and presented the testimony of the DOE Psychologist.

## **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 August 2022 determination that the Individual meets the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition* (DSM-5) diagnostic criteria for Alcohol Use Disorder (AUD), Mild, in Early Remission without adequate evidence of rehabilitation or reformation. Ex. 1 at 1. Additionally, the LSO cited the Individual's May 14, 2022, arrest and charges listed above; an alcohol-related incident in May 2016 or 2017 with a neighbor which resulted in the Individual being assaulted and requiring medical treatment; an arrest and charge for public intoxication on April 20, 2005; and an arrest and charge on November 9, 2002, for Driving Under the Influence (DUI) and Violation of Drinking Age Law. *Id.* 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 the alcohol-related criminal offenses listed above that occurred in in 2002, 2005, and 2022. Ex. 1 at 2. The 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**

As stated above, due to security concerns arising from self-reported May 2022 alcohol-related arrests, the Individual underwent an evaluation including a CI) with the DOE Psychologist in August 2022. Ex. 11. During the CI, the Individual reported to the DOE Psychologist that on May 14, 2022, he and his wife accompanied a group of her coworkers to attend a baseball game.<sup>3</sup> *Id.* at 4; Ex. 9. He reported that prior to the baseball game he had consumed two or more 16-ounce beers. *Id.* When someone in their group became ill, the Individual stated he accompanied the person to their hotel. Ex. 11 at 4. Once he arrived at the hotel, he had arranged to be transported by a ride-share service back to the baseball game, however, he stated that he could not recall what happened after he called the ride-share service, and his wife told him that he never returned to the baseball stadium. *Id.* In her Report, the DOE Psychologist reviewed and summarized a police report which stated that, after he returned from the hotel, the Individual was causing a disturbance in the same area where he had previously been consuming alcohol prior to the game, and when he refused to leave the area, security guards called the police who arrested him. *Id.* The Individual told the DOE Psychologist that he had no recollection of this, and he did not know how much or what type of alcohol he may have consumed in the time span between leaving the hotel and the arrest. *Id.* In her Report, the DOE Psychologist stated that the Individual described a “blackout” due to alcohol use, which is indicative of excessive alcohol intake. *Id.* The DOE Psychologist also stated that according to the police report, when the Individual was approached by police officers, he became exceedingly belligerent, attempted to kick a female officer in the head, and resisted arrest when he withheld his hands from being placed in handcuffs. *Id.* The police report noted that he was slurring his words, was incoherent, and smelled of alcohol. *Id.* The Individual was arrested at approximately 9:30 p.m. at night, however, he could not recall any details until he regained

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<sup>3</sup> The Report contains a scrivener's error in stating that the baseball game was on “May 12.” Ex. 11 at 4. The Individual has consistently reported that he was arrested on May 14, 2022, which was the date of the baseball game. Ex. 9 (Incident Report); Ex. 10 at 1 (LOI Response dated June 16, 2022); Ex. 5 at 1 (DOE Case Evaluation dated June 9, 2022).

consciousness in a police detention facility at approximately 3:00 a.m. *Id.* Ultimately, he bonded out of jail and hired an attorney. *Id.*

The Report also stated that after being evaluated by a substance abuse professional from his employer on May 27, 2022, the Individual was diagnosed with AUD, Moderate, and was referred to an Intensive Outpatient Program (IOP). *Id.* at 4–5. The Individual stated during the CI that he completed his IOP on July 25, 2022, and upon discharge from IOP, it was recommended that he continue to attend weekly aftercare meetings, attend at least two weekly Alcoholics Anonymous (AA) meetings, select an AA sponsor, and continue abstaining from alcohol. *Id.* at 5. The Individual asserted that he had 90 days of sobriety on the date of the CI. *Id.* at 7. As part of the evaluation with the DOE Psychologist, the Individual underwent a Phosphatidylethanol (PEth) test, which returned a negative result. *Id.* at 5. As stated in the Report, “[a] negative PEth provides medical evidence that the subject has not been drinking [alcohol] on a regular, heavy basis within a few weeks of the test, and has not had binge drinking episodes or [engaged in] moderate drinking within about one week of the test.” *Id.* The DOE Psychiatrist stated that the Individual’s PEth result was “consistent with [his] self-report that he has abstained from the use of alcohol” and it indicates “a degree of integrity and reliability on the [Individual’s] part.” *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 8. The DOE Psychiatrist opined that for the Individual to show adequate evidence of rehabilitation or reformation, she recommended that the Individual provide evidence of abstinence for at least 6 months, and the DOE Psychologist noted that the Individual had already remained abstinent for three months. *Id.* at 8. She further recommended that the Individual attend either AA or an IOP and noted that the Individual had already completed an IOP. *Id.* She also recommended that the Individual follow the recommendations of his IOP program to attend AA twice weekly. *Id.* Further, the DOE Psychologist stated that “proof of abstinence would require documentation over the next three months from weekly participation in AA.” *Id.*

At the hearing, the Individual’s former supervisor (the supervisor), who has been retired since March 2023, testified that he has known the Individual for many years since the Individual and the supervisor’s son played on high school sports teams together, during which time the supervisor interacted with the Individual and his parents on a weekly basis. Tr. at 13–15. After the Individual began working for their employer, the supervisor asserted that he asked his own manager to have the Individual hired under his supervision because he knew that the Individual was a very reliable person. *Id.* at 15, 21–22. The supervisor testified that he supervised the Individual directly for six to eight months, during which time they had close daily contact. *Id.* at 16. He asserted that he never observed the Individual showing any signs of alcohol intoxication, and the Individual followed all rules and regulations at work. *Id.* at 16, 22. The supervisor testified that he and the Individual are neighbors, and they currently interact multiple times a week. *Id.* at 16–17. He stated that the Individual told him about the current security concerns immediately after the precipitating alcohol-related incident and took full responsibility by acknowledging his mistakes. *Id.* at 18–19, 23. He asserted that the Individual also told him about his recovery efforts to maintain his sobriety, including participating in extra treatment-related meetings that are above and beyond what has been recommended. *Id.* at 19; *see* Ex. K (letter of support dated November 21, 2022).

The Individual's AA sponsor (the sponsor) testified that he met the Individual at an AA meeting approximately nine months before the hearing date, and he sees the Individual at AA meetings three to four times every week. *Id.* at 27–28; Ex, G (letter of support dated November 4, 2022). The sponsor testified that he additionally meets with the Individual every week to work on the Individual's progress through the AA Twelve-Steps, and he speaks with him by phone every other day. *Id.* at 29. He stated that the Individual is currently on Step Nine, has never missed a sponsor meeting, and actively works on all twelve steps of AA, including serving others as part of his recovery. *Id.* at 29–30. He testified that he has observed the Individual chair many AA meetings. *Id.* at 31–32. The sponsor also attested to the fact that the Individual interacts with other AA members outside of AA meetings, including attending weekly dinners with a small group of AA members. *Id.* at 33–34.

The sponsor testified that the Individual introduces himself as an alcoholic during AA meetings, has been sober since the date of his last alcohol-related arrest, which was approximately nine or ten months ago, and is genuinely working on the Twelve-Steps because he understands that he has to stay connected to AA and work on his sobriety for the rest of his life. *Id.* at 37, 39–40, 42, 44. He testified that he has observed the Individual implementing tools he has learned from AA, has shared about stressful circumstances during AA meetings, and has learned how to address such situations including balancing his extensive AA and sobriety treatment participation while simultaneously spending quality time with his family. *Id.* at 38–39, 47–48. The sponsor asserted the Individual has discussed with him his acceptance of the fact that he cannot consume any alcohol. *Id.* at 43. As such, the sponsor asserted that he believes the Individual will not consume alcohol again as long as he continues working his AA program. *Id.* at 41.

The Individual's treating psychotherapist (therapist) testified that she has been treating the Individual every week since September 2022 with a total of 12 therapy sessions. *Id.* at 108, 110. She stated that the Individual began therapy with her because he was seeking to work with a professional therapist to help him integrate all the concepts he was learning in his treatment groups. *Id.* at 108–09. The therapist testified that the Individual told her that his last alcohol use was on his arrest date in May 2022, and the therapist asserted that she believes him because she finds him to be an honest, accurate historian. *Id.* at 109, 126. Further, she stated that one of the things that she found significant about the Individual was that after he was arrested, he entered into acceptance mode very quickly, instead of staying in denial. *Id.* at 110. Specifically, he admitted his mistakes and accepted that he needed to get the specific treatment that was recommended to him, but he also decided to do even more than the recommended treatment. *Id.*

The therapist stated that social situations and stress were the Individual's biggest triggers for alcohol use, so the number one thing he can do to help himself is talk about his feelings. *Id.* at 130. She asserted that the Individual has done all the right treatment to appropriately address his AUD and has successfully learned how to use effective coping skills, including to manage stressful situations. *Id.* at 123–24. She asserted that the Individual has also learned how to discuss his feelings instead of guarding his emotions. *Id.* The therapist further stated that, because his alcohol use revolved around social situations and the Individual is a very social person, she and the Individual have spoken extensively about his interactions with his friends. *Id.* at 113. The therapist testified that the Individual has learned to be very vocal with his friends by telling them that he no longer consumes alcohol. *Id.* at 116. The therapist stated that by informing his friends of his

commitment to abstinence, the Individual has effectively created respectful boundaries with his friends so that they support his sobriety and do not consume alcohol while they are in his presence. *Id.* at 114, 116. She stated that the Individual told her that all his close friends have accepted his commitment to abstinence from alcohol which has allowed him to maintain most of his same friendships, and she asserted it is significant that they have signed sworn statements of their commitment to support him in maintaining his sobriety. *Id.* at 113, 115–16; Ex. H (letter from friend at IOP program dated November 22, 2022); Ex. L (letter from close friend dated January 29, 2023); Ex. M (letter from friend dated November 6, 2022); Ex. N (letter from friend dated October 24, 2022).

The therapist testified that she diagnosed the Individual with AUD in Remission and generalized anxiety disorder, unspecified (GAD). *Id.* at 117–18; Ex. C at 1 (letter from therapist dated March 6, 2023). She stated that the Individual is currently in the prevention of relapse “stage of change,” so she has been working with him in developing effective components for his relapse prevention plan. *Id.* at 131. She testified that helpful components for the Individual’s treatment plan include receiving feedback from his family and close friends if they observe concerning behavior, identifying which of his AA groups has really helped him progress with his sobriety and maintaining honesty with them, and continuing to work with his AA sponsor. *Id.* at 132–33. The therapist opined that the sponsor is a very positive support for the Individual’s sobriety. *Id.* at 131. She stated the Individual had changed AA sponsors previously and asserted that she is glad that the Individual chose to switch to a different AA sponsor because his current AA sponsor is a better, more compatible fit for him. *Id.* at 127–28. The therapist asserted that the Individual has a very close-knit, supportive family and is very open and accepting of any feedback they provide. *Id.* at 113, 132. She noted that since the Individual’s self-esteem is very much based on successfully fulfilling his role as a husband and father, it is important for the Individual to have a good balance between attending several AA meetings per week and aftercare meetings, while also fulfilling work obligations and still making sufficient time to spend with his family. *Id.* at 119–20. As such, the therapist testified that she has been successfully working with the Individual to find balance and not neglect his family by developing a “stepdown approach.” *Id.* at 120.

The therapist opined that the Individual has an excellent prognosis for his AUD. *Id.* at 121. She further opined that the Individual “definitely” has the tools and support system that he needs to stay sober, and his risk of relapse is very low. *Id.* at 112, 127. The therapist also opined that the Individual is rehabilitated because he has shown evidence that he has internalized this whole sobriety treatment process, and he is maintaining his sobriety because he wants the best life for himself and his family as opposed to being motivated just because he is afraid of negative consequences. *Id.* at 125. Additionally, the therapist concluded that the Individual’s GAD is situational anxiety related to the personnel security hearing, and she opined that the Individual’s anxiety does not impair his judgment or reliability. *Id.* at 118, 122.

The Individual testified regarding his efforts to mitigate the security concerns. He testified that his sobriety date is May 15, 2022, after his most recent alcohol related arrest, and he asserted that at that time he realized that he never wanted to consume alcohol again. *Id.* at 68. In support of his assertions of abstinence, the Individual submitted four negative urinalysis (UA) tests from May 2022 through June 2022. Ex. R. The Individual also submitted evidence of seven negative PEth

tests and seven negative UA tests from September 2022 through March 2023. Ex. T at 1–4, 6–7, 10–12, 14, 16, 18–19, 21.

The Individual testified that he completed an eight-week IOP program on July 25, 2022, and he submitted copies of the chips he earned upon graduation from his IOP. Tr. at 56; Ex. Q. He testified that he continues to attend the aftercare program every Wednesday night, and he still maintains weekly in-person contact with his IOP counselors as part of his support system. Tr. at 76, 100–01; Ex. F (letter from IOP therapist). In addition, the Individual asserted that he maintains regular contact with two friends from his IOP program: one is in his aftercare group, and the other is an aftercare member who contacts him daily via text message. Tr. at 61–63, 65–67. In support of his testimony, he submitted letters from two friends from his IOP program. Ex. H; Ex. I.

The Individual testified that he began participating in AA in June 2022, while he was still attending his IOP program, and he received his nine-month sobriety chip from AA on February 15, 2023. Tr. at 57, 59. He asserted that he intends to maintain permanent abstinence from alcohol use. *Id.* at 52. The Individual testified that he introduces himself as an alcoholic at AA meetings and attends AA meetings three to four times a week. *Id.* at 52, 75; *see also* Ex. S (AA attendance sheets from June 29, 2022, through March 8, 2023). He stated that he sees his sponsor at almost every AA meeting he attends, and he has recently completed Step Eight of AA whereby he made an amends list which he has partially completed by making amends with others. *Id.* at 72. The Individual testified that one person with whom he has made amends is the arresting officer from his May 2022 alcohol-related arrest. *Id.* The Individual asserted that his future goals for AA are to continue working on all the AA Steps, and once he completes them, he will go back and constantly redo them and continue to attend at least one AA meeting per week. *Id.* at 70, 96, 104. Moreover, he asserted that he has a goal of spreading the AA message to other alcoholics. *Id.* at 97.

The Individual testified regarding his psychotherapy sessions with this therapist; she has helped him learn how to cope with stress, and they also discuss what he is learning from AA and how the concepts resonate with him. *Id.* at 95. He further testified that he plans to continue seeing his therapist because he trusts and confides in her. *Id.* at 100.

The Individual testified about his criminal history. He admitted that he had consumed alcohol to excess at the time of his May 14, 2022, arrest. *Id.* at 80. He testified that he figured out what had happened involving his offensive conduct the next morning after the arrest when one of the officers read him all the charges and when he received documents from his defense attorney.<sup>4</sup> *Id.* at 73, 81; Ex. 11 at 4. He testified that upon learning about his offensive conduct that had occurred during the May 2022 arrest, he felt very shameful, and he asserted that he has discussed with his sponsor his feelings of shame and guilt regarding his conduct and arrest. *Id.* The Individual stated that he has two helpful phrases that he continues to repeat to himself regarding the May 2022 arrest. *Id.* at 81–82. One phrase is that he does not “want anyone else to meet the person [he] was that day.” *Id.* at 81–82; *see* Ex. E (letter from the Individual’s wife dated December 4, 2022). He explained

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<sup>4</sup> The Individual submitted court records reflecting that, following plea negotiations, on March 23, 2023, the charges of simple assault and obstruction of law enforcement officer were dismissed, and he pled guilty to the charge of public drunkenness. Ex. U at 2–5. He submitted proof of his letter of apology and payment of his fine as part of his court obligations for the public drunkenness conviction. Ex. B; Ex. U at 1.

that he has learned from his sobriety treatment and his AA sponsor that when he consumes alcohol, “the chemical . . . takes over,” which had caused him to be a disrespectful, aggressive person during the May 2022 arrest, which was the “opposite” of the person he is. *Id.* at 82. The Individual asserted that alcohol-related incidents such as the May 2022 arrest will not recur because he continues to use the tools and the program of AA, including attending meetings, working with his sponsor, and doing service work to help others. *Id.* Moreover, the Individual testified that the second helpful phase that he repeats to himself regarding that arrest is, “This didn’t happen to me, it happened for me.” *Id.* He explained that his May 2022 arrest led him to learn and accept that he has a disease of being an alcoholic. *Id.* at 82. He stated that it was “very liberating” for him to understand that he has this disease because it empowers him to make decisions to support his sobriety and take actions to maintain abstinence such as declining offers to social events which involve alcohol use. *Id.* at 83.

The Individual also admitted that he had consumed alcohol to excess during his November 2002 arrest for DUI and his April 2005 arrest for public intoxication.<sup>5</sup> *Tr.* at 80. Regarding the incident in May 2017, he stated in his LOI response that he had been drinking to excess when he chose to trespass across a neighbor’s yard, which offended the neighbor who then hit the Individual with a blunt object. *Ex. 10* at 2. He testified, consistent with his LOI response, that no charges were filed against him, and law enforcement was not involved. *Tr.* at 79; *Ex. 10* at 2. He testified that his trigger for alcohol use is stress and testified that he now addresses stress by expressing his feelings of frustration to his support system including his wife and at his AA meetings. *Id.* at 85–86, 98. He asserted that his wife supports his sobriety treatment as demonstrated by her actions including her own commitment to abstinence from alcohol, their increased church involvement as a couple, and her participation in Al-Anon. *Id.* at 83–85; *see also Ex. A* (letter from Individual’s wife dated December 4, 2022). The Individual further asserted that he has a support system consisting of his wife, parents, siblings, close friends, AA sponsor, and AA program. *Id.* at 68–69. He asserted that he has maintained his same friendships because his friends have agreed not to consume alcohol in his presence. *Id.* at 87–89. The Individual testified that he currently does not have any cravings for alcohol, but if he did, he would immediately contact his AA sponsor or one of his fellow treatment members and attend an in-person or virtual AA meeting. *Tr.* at 71.

The DOE Psychologist testified that in her opinion the Individual has “shown more than adequate evidence [for demonstrating] rehabilitation and reformation” from AUD. *Id.* at 139. She stated that during her psychological evaluation, she found the Individual to be intrinsically motivated in that he acknowledged he had an alcohol problem and was willing to take whatever steps necessary to address it, “not just to . . . save his job or save face with his family, but to really address the problem for the long-term.” *Id.* at 139. She testified that the Individual has not only followed all of her treatment recommendations, but he has also taken the initiative to do additional efforts such as participating in psychotherapy, finding an AA sponsor that is a better fit to work with him, and being transparent with his friends about his alcohol problem such that he is successfully able to maintain the same friend group while maintaining his sobriety. *Id.* at 139–41. The DOE Psychologist also opined that the Individual’s prognosis is “very positive” and his risk for relapse is “very low.” *Id.* at 141. She concluded that the Individual has lowered his risk “as much as a person can” and has a relapse prevention plan in place. *Id.* at 141–42.

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<sup>5</sup> The Individual submitted court records reflecting that the April 2005 public intoxication charge was dismissed and subsequently expunged. *Ex. O.*



## V. Analysis

### A. Guideline G

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.

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 May 14, 2022 arrest, as evidenced by the fact that he immediately began abstaining from alcohol the date after his arrest, he began participating in an IOP program on the same month that he was arrested, and he acknowledges that he is an alcoholic. The record also contains evidence of the significant actions that he has taken to overcome his problem. First, he completed an eight-week IOP program and continues to participate in weekly aftercare meetings while taking extra steps to ensure his sobriety by still maintaining weekly contact with his former IOP counselors and broadening his support system to include IOP aftercare. Second, he continues to attend AA three to four times every week, instead of the recommended twice weekly AA participation. Further, he actively works with his AA sponsor to progress in his Twelve-Step work and has demonstrated an impressive level of engagement as attested to by his AA sponsor. Third, he took additional actions to maintain his sobriety by participating in individual psychotherapy to successfully address how to cope with his triggers and how to integrate the skills he learned through his treatment programs. Fourth, he has established healthy boundaries with his closest friends to maintain his relationships with the same friends that he had when he previously consumed alcohol, and he obtained their commitment to support his abstinence. The Individual has also established a strong support network to aid in his recovery. Moreover, the Individual has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations by maintaining nine months of abstinence, which is supported by objective evidence in the form of negative PEth tests and UA tests even though the DOE Psychologist did not recommend testing as

proof of abstinence. Given that the DOE Psychologist opined that the Individual's efforts were more than adequate to establish rehabilitation and reformation, and based upon the Individual's recognition of his maladaptive alcohol use, his significant actions to overcome this problem, and his proof of abstinence, I find that the Individual has satisfied the second mitigating condition under Guideline G. I am confident he is unlikely to engage in problematic alcohol consumption in the future.

I also find the Individual has mitigated the Guideline G security concerns under ¶ 23(d). The Individual completed his IOP program on July 25, 2022. Further, while the DOE Psychologist did not recommend that the Individual attend aftercare, the Individual continues to attend weekly aftercare meetings since his IOP graduation through the date of the hearing, and he stays in weekly contact with his former IOP counselors as part of his support system for his sobriety. Moreover, as stated above, he has exceeded the DOE Psychologist's treatment recommendations by attending additional AA meetings every week, working with a sponsor, and participating in individual psychotherapy. Finally, the DOE Psychologist recommended that the Individual needed to provide adequate evidence of abstinence for at least 6 months, but the Individual has exceeded this recommendation by providing objective evidence of nine months of abstinence. Accordingly, I find the Individual has satisfied the fourth mitigating condition under Guideline G.

## **B. Guideline J**

Conditions that may mitigate security concerns under Guideline J include that "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[.]" Adjudicative Guidelines at ¶ 32(a).

I find the Individual has mitigated the Guideline J security concerns under the above mitigating condition. The root cause of the Individual's criminal activity is his AUD. All the Individual's criminal offenses 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 May 2022 and has diligently endeavored to obtain and continue appropriate treatment for his AUD. Moreover, the DOE Psychologist concluded that he presented more than adequate evidence of rehabilitation and reformation, and notably opined that his risk of relapse is very low, as he has lowered it "as much as a person can" do so. As his criminal history was inexorably tied to his alcohol consumption, my findings above demonstrate that his alcohol related criminal behaviors are unlikely to recur and do not cast doubt on the Individual's reliability, trustworthiness, or good judgment.

## **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