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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:	June 6, 2023)	Case No.: PSH-23-0089
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Issued: September 15, 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 not be granted.

I. Background

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. When completing a Questionnaire for National Security Positions (QNSP) in August 2022, the Individual reported that he sought alcohol-related treatment in July 2020. Exhibit (Ex.) 9 at 106. Subsequently, the Local Security Office (LSO) issued a Letter of Interrogatory (LOI) to the Individual, which sought additional information about the Individual's alcohol-related treatment and alcohol use. Ex. 6. The Individual completed the LOI in January 2023. *Id.* at 37. The Individual was subsequently evaluated by a DOE-consultant psychiatrist (DOE Psychiatrist).

The LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding the Individual's eligibility to hold a security clearance. In the Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained

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.

that the derogatory information raised security concerns under Guideline G (Alcohol Consumption) 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. The DOE Counsel submitted nine numbered exhibits (Ex. 1–9) into the record and presented the testimony of the DOE Psychiatrist at the hearing. *See* Transcript of Hearing (hereinafter cited as “Tr.”). The Individual submitted five lettered exhibits (Ex. A–E) into the record and presented the testimony of six witnesses, including himself.

II. Notification Letter and Associated Security Concerns

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as the 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 2023 determination that the Individual met the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)* criteria for Alcohol Use Disorder (AUD), Mild and that he had not demonstrated adequate evidence of rehabilitation or reformation. Ex. 1. The LSO also cited the DOE Psychiatrist’s opinion that the Individual “binge consume[s] alcohol to the point of impaired judgement.” *Id.* Additionally, the LSO cited the results of the Individual’s March 1, 2023, Phosphatidylethanol (PEth) laboratory test, which the DOE Psychiatrist determined was congruent with moderate to heavy alcohol consumption. *Id.* The above allegations justify the LSO’s invocation of Guideline G.

III. Regulatory Standards

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

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

personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Findings of Fact

In January 2023, the Individual completed an LOI at the request of the LSO. Ex. 6. He stated that he consumed alcohol daily during the month of July 2020 because he was in a depressive state. *Id.* at 23–24. The Individual reported that, in July 2020, he voluntarily sought counseling related to his alcohol use and depression from his treating therapist and treating psychiatrist through the Veterans Administration (VA).² *Id.* at 20–21. He explained that this was not an alcohol treatment program, but, rather, it was counseling that he received when he was “drinking to[o] much” alcohol due to a decline in his mental health at that time. *Id.* at 21. He stated he was diagnosed with major depressive disorder. *Id.* The Individual reported that he was advised “to slow down on drinking, but not told to stop completely.” *Id.* at 22.

In March 2023, the Individual underwent a psychological evaluation by the DOE Psychiatrist, which included a clinical interview (CI). Ex. 7. During the CI, the Individual told the DOE Psychiatrist that he was first diagnosed with a depressive disorder and treated with antidepressant medication in 2016. *Id.* at 48. He stated that his older brother passed away in July 2017. *Id.* at 42. He stated that his brother’s main medical problem was liver disease, which was partly caused by his alcohol use. *Id.* The Individual reported that his depression worsened after the death of his brother in July 2017, and after he was discharged from the military in September 2017 due to a back injury. *Id.* at 42, 48. The Individual stated that his depression continued worsening, such that he was hospitalized for a week in November 2017, and he had a second major depressive episode which required hospitalization in June 2019. *Id.*

During the CI, the Individual also told the DOE Psychiatrist that he typically drank four hard seltzers a day on weekends or vacations; however, he stated that his alcohol consumption grew particularly heavy in the summer of 2020. *Id.* at 45. He reported that his depression increased in July 2020 due to the anniversary of his brother’s death, and he started drinking four or five hard seltzer drinks during weekdays and eight to 11 alcoholic drinks on weekend days. *Id.* at 45. The Individual told the DOE Psychiatrist that he had been diagnosed with an Alcohol Use Disorder (AUD) by the VA, but he denied any treatment had been recommended to him for his AUD. *Id.* He stated that, in July 2020, he told his VA doctor about his heavy consumption, and he also discussed it with his treating VA psychiatrist. However, he stated that his psychiatrist did not recommend any treatment for alcohol problems but told him to “slow down” when the Individual reported that he “was drinking too much.” *Id.* at 45, 48. The Individual reported that he currently continues participating in psychological treatment which includes taking prescribed antidepressant medication. *Id.* at 44. He denied any suicidal feelings or plans, and stated that he would seek help if suicidal. *Id.* He also stated that his wife knows how to intervene if his depression deepens. *Id.*

² The Individual had been seeing this treating psychologist and treating psychiatrist at the VA since approximately 2018 for treatment for depression. Ex. 7 at 43.

The Individual reported that he last drank alcohol to intoxication in July 2022, when he drank approximately eight cans of hard seltzer during six hours. *Id.* at 46. He reported that he last consumed alcohol approximately ten days before his CI when he drank four alcoholic beverages, and he also reported the same amount of alcohol consumption approximately 17 days prior to his CI. *Id.* The Individual said that his future intent is to continue weekend alcohol consumption, in moderation, and he asserted he does not intend to drink to the point of intoxication. *Id.* As part of the evaluation, the Individual underwent a PEth test, which was positive at a level of 408 ng/mL. *Id.* at 47. The DOE Psychiatrist concluded that a PEth test at that level “makes it medically certain that [the Individual] has been drinking heavily within the last 21–28 days.” *Id.* The DOE Psychiatrist also concluded in his report (Report) that the Individual was likely under-reporting his alcohol consumption. *Id.*

Ultimately, the DOE Psychiatrist concluded the Individual met the diagnostic criteria for AUD, Mild, and that he binge consumed alcohol to the point of impaired judgment.³ *Id.* at 51. In order to demonstrate adequate evidence of rehabilitation or reformation, he recommended that the Individual should have a desire to enter treatment and participate in outpatient treatment of moderate intensity. *Id.* He specified that “moderate intensity” means attending a treatment regimen of either Alcoholics Anonymous (AA) or SMART at least once per week, or participating in individual alcohol treatment by a qualified alcohol abuse counselor. *Id.* The DOE Psychiatrist also recommended that treatment should include that the Individual maintain abstinence from alcohol, and he stated that the “[d]uration of treatment should be for one year in order to provide adequate evidence of rehabilitation and reformation.” *Id.*

At the hearing, the Individual’s Employee Assistance Program (EAP) Counselor testified that she facilitates two alcohol treatment groups, a six-week alcohol education and awareness class and a Maintaining Changes group. Tr. at 22, 24. The EAP Counselor testified that the Individual started attending her alcohol education and awareness class on May 25, 2023, and he completed the course on July 13, 2023. *Id.* at 22; Ex. B (Individual’s Certificate of Completion for EAP Alcohol Awareness and Education Class). She testified that the Individual actively participated in this class and he demonstrated that he had learned lessons, including identifying different types of triggers, and the definition of binge drinking. He also took the opportunity in class to become more aware of his own unique relationship to alcohol. Tr. at 22–23. She further stated that, when the Individual subsequently joined her Maintaining Changes group, she observed that he really started to open up and share more because he saw other participants sharing their trauma and grief, which made the Individual feel safer. *Id.* at 24. She stated that the Maintaining Changes group has given him the opportunity to feel less ashamed and less stigmatized about alcohol and the death of his brother, which he shared in the group, and she believes that the Individual feels less isolated and alone because he is able to identify with the other participants. *Id.* at 24–25.

The EAP Counselor stated that she thinks the Individual is “at the early stage of recovery, and [she] think[s] he’s committed to . . . abstaining and recovery.” *Id.* at 27. She explained that the Individual is at “this beginning recovery” in learning how to tolerate his feelings and learning to use coping mechanisms, including by engaging in the resources that he has found in the last several

³ The DOE Psychiatrist opined in his Report that the Individual’s Major Depressive Disorder does not impair his judgment, stability, reliability, or trustworthiness. Ex. 7 at 48.

months. *Id.* at 25. She testified that the Individual has talked in her group about his counseling with his individual therapist, and she knows he sees a nurse practitioner (“PNP”) who specializes in psychiatry; he attends AA; and he is using her group as an additional resource. *Id.* at 23, 25. The EAP Counselor stated that she has seen the Individual transform from when he initially started her first class and was a little nervous about being in a group, to coming to the realization of the effects of his grief, loss, and depression, to making more recent changes by becoming involved in activities and resources to support his goal of abstinence. *Id.* at 24, 26–27. She testified that she encourages the Individual to continue to meet with his individual therapist and continue attending her Maintaining Changes group. *Id.* at 27–28.

The Individual’s EAP therapist (the “EAP Therapist”) testified that he had his first session with the Individual in May 2023. *Id.* at 38. He stated they have had three sessions together, and there are five remaining sessions in their program. *Id.* at 36. He testified that their therapy is primarily focused on learning new methods to address triggers that might be impacting the Individual’s use of alcohol as a medium for dealing with grief and loss and how depression relates to his alcohol use. *Id.* at 35–36. The EAP Therapist testified that the Individual has “already . . . made very deep inroads into the underpinnings of . . . [his] grief, . . . loss, trauma, and [the connection] to alcohol.” *Id.* at 36. He stated that because the Individual entered therapy with a lot of determination and clarity regarding his efforts at mitigation, they were able to quickly gain valuable insight around key events in the Individual’s life that have impacted him. *Id.* at 37.

The EAP Therapist asserted that the Individual has been very clear in identifying his triggers, and he and the EAP Therapist have quickly established coping strategies that the Individual is employing. *Id.* at 37. He provided the example of the July anniversary of his brother’s death and stated that they are working on ways to positively memorialize the month of July, so that the Individual works on allowing himself to experience his grief and loss in a safe, healthy way, without using alcohol, instead of blocking those emotions. *Id.* at 45–46. The EAP Therapist also testified that the Individual is using a breathing technique that allows him to become less inclined to cut off from his emotions that arise from his triggers, instead of using alcohol as a protector from his emotions. *Id.* at 44–45. This allows him to identify and meet his emotional needs by using his resources and support system such as his EAP group, his wife, and his therapy sessions. *Id.* at 37, 45. The EAP Therapist asserted that the Individual’s plans are to abstain from alcohol, continue to grow and gain insight, and heal from his emotional issues. *Id.* at 38–39. He stated that, even in his short period of treatment, the Individual has demonstrated “clarity, heart, determination, and even [facing] his fears and trepidation to [address]. . . the really hard losses in his life” and do the required work to obtain his clearance. *Id.* at 41.

The Individual’s other older brother (“Brother”) testified that he has been living with the Individual for five years, and they spend all their time together, with the exception of working hours. *Id.* at 51, 57. He testified that he last saw the Individual consume alcohol on May 21, 2023. *Id.* at 63. He testified that for the last three months, the Individual had not consumed any alcohol. *Id.* at 54. The Brother testified that the Individual recognizes that he has an alcohol problem, and he is attending AA as well as an alcohol treatment class. *Id.* at 55. The Brother testified that he and the Individual’s wife are committed to supporting the Individual’s sobriety, so they make sure that there is no alcohol in the house, and he indicated they are also a source of emotional support for the Individual. *Id.* at 55–56, 58.

The Brother testified that he does not believe that the Individual would return to drinking alcohol because he has had multiple opportunities to do so, yet he has remained abstinent. *Id.* at 58–59. He stated that, in early June 2023, they went to their cousin’s wedding, but the Individual remained abstinent. *Id.* at 59, 62–63. Additionally, the Brother stated that the Individual attended a baseball game with his family on July 4, 2023, and although the Brother and parents drank alcohol, the Individual did not consume any alcohol. *Id.* at 57. Also, the Brother testified that, in late July 2023, he accompanied the Individual on a work trip to Las Vegas, and the Individual did not consume any alcohol there. *Id.* at 62. The Brother observed that, since the Individual started alcohol treatment, he is more goal oriented, is getting better sleep, is exercising, and has a positive, upbeat emotional demeanor. *Id.* at 58, 60.

The Individual’s colleague (“Colleague”) and the Individual’s second line supervisor (“Supervisor”) both testified at the hearing. The Colleague and Supervisor testified that they see the Individual multiple times per week at work and have never seen the Individual appear to be under the influence of alcohol, nor are they aware of any problems with his work performance. *Id.* at 67–68; 80–81. The Colleague also stated she trusts the Individual, and the Individual is mentoring her 17-year-old son, who has never told her about any alcohol problems involving the Individual. *Id.* at 72–73. The Supervisor testified that the Individual is one his top performers, who was promoted, and the Individual successfully takes on a mentorship role within their group. *Id.* at 81. The Supervisor asserted that, in the last three months, he has observed that the Individual has taken on more responsibilities at work and handles daily work stress so well that he also helps his colleagues in managing their stress. *Id.* at 82–83.

The Individual testified that he has been abstinent from alcohol since May 21, 2023. *Id.* at 102. He submitted two negative PEth tests, one from July 7, 2023, and one from August 1, 2023, to support his assertions of abstinence. Ex. D; Ex. E. He stated that he previously saw a psychiatrist at the VA for depression and anxiety from approximately 2019 until 2022. *Id.* at 110–11. He testified that, when he told his psychiatrist about his alcohol use, the psychiatrist told him that he could refer him to an alcohol treatment group if the Individual thought he had an issue, but the Individual said that, at that time, even with an alcohol-related diagnosis, he did not think he had an issue with alcohol. *Id.* at 111. The Individual testified that he first recognized that he had an alcohol problem when he received the Notification Letter and read the DOE Psychiatrist’s Report. *Id.* at 112. However, he admitted that he did not agree with the DOE Psychiatrist’s diagnosis of AUD until mid-June 2023, after he had taken a few of the EAP classes. *Id.* at 112–14.

The Individual testified that he completed a six-week EAP alcohol education course, and he is still attending the 12-week EAP course for Maintaining Changes. *Id.* at 88. He testified that, through his participation in his EAP group and his EAP individual counseling, he came to recognize that he has an alcohol problem, in that when he gets depressed, he consumes excessive alcohol. *Id.* at 88. He testified that, through his EAP group, he learned that he had been consuming a lot more alcohol than he originally thought he was, and he learned about alcohol’s physical effects, including the effects on his memory. *Id.* at 93–94. The Individual also testified that the comfort of the group helped him to be able to voice, for the first time, his issues regarding his brother’s death. *Id.* at 95. Additionally, the Individual testified that by working with his EAP Therapist, he was able to address previously unaddressed traumas, such as the death of his brother, the depression

that he developed from leaving the military, and his depression from losing his cousin to suicide three months after his brother died. *Id.* at 96–97. He stated that prior to three months ago, he had a very difficult time talking about those traumas, but he has since made a lot of progress on these issues through therapy. *Id.* at 97–98.

The Individual admitted that he has a problem with alcohol and testified that he introduces himself as an alcoholic at AA meetings. *Id.* at 90, 93. He stated he attends AA at least once weekly in compliance with the DOE Psychiatrist’s recommendation, and sometimes, he attends AA three to four times a week. *Id.* at 90. He submitted an AA attendance verification reflecting that he attended three AA meetings in one week in July 2023. Ex. C. He stated that, when he was in Las Vegas for his work trip, he leaned on AA heavily because there was temptation everywhere, so he attended an AA group online there and found that it was helpful. *Id.* at 87. The Individual testified that the last AA meeting he attended was the Saturday before the hearing. *Id.* at 89. He indicated that he finds greater camaraderie in his EAP group, but he stated it could be because he attends more online AA meetings than in-person AA meetings. *Id.* at 90–91. The Individual also admitted that he is stuck on Step One of AA because he is having difficulty with having the willingness to accept that he is powerless against alcohol. *Id.* at 91. He explained that he refuses to give alcohol that much power because he believes that, while there are addictions, people are all accountable for their decisions. *Id.* at 92. He testified that because he is having difficulty with the first AA step, he is considering alternative treatment programs and is interested in looking at SMART recovery. *Id.* at 90, 92–93.

The Individual testified that he currently attends individual counseling, and he still sees his treating psychiatric nurse practitioner (“PNP”) every two weeks. *Id.* at 89. The Individual submitted a July 21, 2023, letter from his treating PNP, who stated that she has been treating him since November 2022, and she diagnosed him with major depressive disorder, posttraumatic stress disorder, attention deficit disorder, and AUD, Moderate in Early Remission. Ex. A. The PNP stated that she has been treating him for medication management, and she referred him for weekly individual therapy, with a Licensed Marriage and Family Therapist (LMFT). *Id.* She stated that she verified with the LMFT that the Individual is highly engaged during their visits, and the PNP asserted that the Individual is motivated to maintain an alcohol-free lifestyle.⁴ *Id.*

The Individual testified that he plans to continue to complete the remaining five therapy sessions with the EAP Therapist, and he plans to continue participating in additional therapy with the LMFT, as well as continuing to comply with medication management with his treating PNP. *Id.* at 99. Regarding alcohol treatment, the Individual asserted he will continue to attend his 12-week Maintaining Changes group conducted by the EAP Counselor, and he plans to continue to attend even after he completes the 12-week course because he gains significant benefit from the group. *Id.* at 99. The Individual asserted he will continue abstaining from alcohol. *Id.* at 101. He also plans to find an alternative for AA that is a better fit, but is willing to continue with AA if it is recommended. *Id.* at 100. Finally, the Individual asserted he has a strong support system consisting of his brother, his wife, his parents, and his colleagues who support and encourage him to attend his EAP programs. *Id.* at 100–01.

⁴ The Individual testified that he is currently seeing two therapists, the LMFT and his EAP Therapist, the latter of which testified at the hearing, and both therapists are helping him address the emotional issues that were contributing to his alcohol use. Tr. at 98.

The DOE Psychiatrist testified that, although the Individual's treating PNP diagnosed him with AUD, Moderate, the DOE Psychiatrist diagnosed him with AUD, Mild. The DOE Psychiatrist explained, "I felt he met criteria for three of the diagnostic criteria, [a]nd generally if there's two or three symptoms present, you generally give a specifier of a mild alcohol use disorder." Tr. at 120; Ex. A (letter from treating PNP). He further stated,

In a sense, he only had one dominant symptom, which was his alcohol use worsened his depression problem. The main problem he had from his alcohol use was that it interfered with his depressive disorder and made it worse. And that was the main problem alcohol had been causing in his life. And it was serious. It was to the point that he required inpatient hospitalization a couple times to the point that he was having suicidal ideation with plans.

Id. at 120. The DOE Psychiatrist also stated that, at the time of the evaluation, the Individual was expressing some denial to him with regard to whether he had an alcohol problem. *Id.* at 122.

The DOE Psychiatrist testified that he was impressed with the Individual's honesty and engagement with the first step of AA. *Id.* at 108. He stated that he thinks SMART might be a better fit for the Individual, and he affirmed that either AA or SMART are acceptable treatment programs. *Id.* at 109. The DOE Psychiatrist also stated that the Individual had shown "very good engagement with his treatment." *Id.* at 123. He pointed out that the EAP Counselor used the word "beginning recovery," and the DOE Psychiatrist opined that he agrees with that because he thinks the Individual has "an excellent start, but it's the beginning." *Id.* at 124.

The DOE Psychiatrist stated that he "usually recommend[s] one year [of] treatment, and that is an important issue here." *Id.* at 123–24. He explained his reasons for recommending one year of recovery, including that the DSM-5 has a guideline that one year is the transition from early recovery to sustained recovery. *Id.* at 124. Moreover, he explained that the one-year timeframe is important because it shows that a person can make it through "triggers that you have to survive" and still maintain sobriety. *Id.* The DOE Psychiatrist stated that the third reason he uses a one-year timeframe for recovery is based on a study for a drug to treat alcoholism, and the study found that of the people in the placebo group who expressed a commitment to one year of abstinence, only ten percent were successful at maintaining abstinence for one year. *Id.* at 125. As such, the DOE Psychiatrist stated that, if the Individual abstains from alcohol for one year, this shows he is in the top ten percent, and the DOE Psychiatrist would feel confident in opining that there is sufficient evidence of rehabilitation or reformation as it would show that he can successfully make it through one year of his triggers. *Id.*

The DOE Psychiatrist noted that the Individual was able to make it through three months of sobriety, including the significant trigger of the anniversary of his brother's death. *Id.* at 125. He indicated that during the Individual's evaluation with him in March 2023, the Individual seemed to use the trigger of his deceased brother's birthday as an excuse to justify why he drank alcohol in February. *Id.* at 126. The DOE Psychiatrist testified that one of the problems with alcohol is that when a person has a difficult problem in their life, they can use it as a justification to drink alcohol, and the DOE Psychiatrist opined that, at this point, the Individual might be underestimating the

power of alcohol. *Id.* at 127. He opined that the Individual is “in excellent early recovery.” *Id.* He stated that the Individual has progressed from “where I saw him, where he had an active alcohol use disorder, because he was still drinking, into he’s now in early recovery.” *Id.* at 129. The DOE Psychiatrist testified that “it sounds like [the Individual has] got an excellent first step, but it’s only three months and it’s a difficult plan.” *Id.* He then stated, “I do not think there’s adequate evidence of rehabilitation or reformation at three months.”⁵ *Id.*

V. Analysis

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.

While the Individual has provided evidence through witness testimony and PEth testing that he has abstained from alcohol since late May 2023, his alcohol use is recent such that I cannot find that so much time has passed that it is unlikely to recur. To his credit, the Individual has made concerted efforts at recently starting alcohol treatment including through his EAP groups and EAP Therapist. However, both the Individual’s EAP Counselor and the DOE Psychiatrist opined that the Individual is in “beginning recovery,” and the DOE Psychiatrist provided important reasons for his recommendation of achieving one year of treatment and abstinence, including being able to survive difficult triggers while maintaining sobriety. In this case, the Individual has a history of consuming alcohol when he is depressed, including when he is triggered by memories of his

⁵ The DOE Psychiatrist testified he wanted to point out in fairness to the Individual, that although his Report was produced just five months prior to the hearing, he recommended one year of recovery. *Id.* at 130. He stated that the Individual’s frustration with the process seems justified because, “in a sense, it’s not fair, he doesn’t have a chance to meet my one-year requirement.” *Id.*

deceased brother. Although he is at the beginning stages of working with this treatment providers to address these triggers, he has not yet demonstrated whether he is able to abstain for one year while surviving the very difficult triggers of anniversaries involving his deceased brother's birthday and death. Furthermore, the DOE Psychiatrist opined that the Individual might be underestimating the power of alcohol, which I find is a potential concern for relapse if not sufficiently addressed in treatment with progress either through AA or SMART recovery as recommended by the DOE Psychiatrist. As such, the passage of only three months between the Individual's last self-reported alcohol consumption and the hearing, is too little to establish that the Individual will not return to problematic alcohol consumption again. Therefore, I find that the Individual has not presented enough evidence to satisfy the first mitigating condition under Guideline G. *Id.* at ¶ 23(a).

While the Individual has acknowledged his maladaptive alcohol use and taken steps to overcome his problems with alcohol, he has not established a pattern of modified consumption or abstinence from alcohol in accordance with treatment recommendations. *Id.* at ¶ 23(b). In his Report, the DOE Psychiatrist stated that he would consider the Individual rehabilitated after approximately one year of treatment. The record shows that the Individual began treatment approximately three months prior to the hearing, when he started attending EAP alcohol group classes, and he last consumed alcohol approximately three months prior to the hearing. Therefore, as the Individual has not established a pattern of abstinence in compliance with treatment recommendations, I find that the second mitigating condition under Guideline G is inapplicable. *Id.*

The Individual is participating in counseling with his EAP Therapist and an additional psychotherapist, as well as a 12-week EAP Maintaining Changes group. He also has no previous history of treatment and relapse. While he has made impressive progress in a brief time, he is still quite early in the recovery process, achieving just three months of treatment prior to the hearing. Moreover, although he is attending AA meetings, he acknowledged that he has not progressed past the first AA step and is interested in finding alternatives that are a better fit for him, such as SMART recovery. The DOE Psychiatrist reiterated his recommendation from his Report that SMART is a suitable alternative treatment for the Individual. However, the Individual has yet to start attending SMART recovery. For these reasons, I find the third mitigating condition inapplicable. *Id.* at ¶ 23(c).

While the Individual completed the first EAP alcohol education course, he is still "at the early stage of recovery," as stated by the EAP Counselor. In addition, the EAP Counselor further explained that the Individual is at "this beginning recovery" in learning how to tolerate his feelings and learning to use coping mechanisms by engaging with the resources he has been developing, which includes the resource of her 12-week Maintaining Changes group. As such, she stated she is encouraging him to continue participating in her Maintaining Changes group, which he has not yet completed. Thus, while the first EAP course is a good start, in order for the Individual to progress beyond the "early stage of recovery," he needs more time in treatment. Additionally, as discussed above, the Individual has not yet progressed past Step One of AA, or pursued an alternative treatment such as SMART recovery. Moreover, the DOE Psychologist recommended that treatment should include abstinence and "the duration of treatment should be for one year in order to provide adequate evidence of rehabilitation and reformation." Therefore, since the Individual has not yet completed his Maintaining Changes group or the additional treatment

recommended by the DOE Psychologist, and he has not yet demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, he has not met the fourth mitigating condition. *Id.* at ¶ 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

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline G 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 not 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 not be granted. 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