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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: July 19, 2023	)	Case No.:	PSH-23-0109
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Issued: December 4, 2023

Administrative Judge Decision

Richard A. Cronin, Jr., Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."[1] As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's security clearance should not be granted.

I. Background

A DOE Contractor employs the Individual in a position that requires him to hold an access authorization. On September 14, 2022, the Individual signed a Questionnaire for National Security Positions (2022 QNSP) certifying that he had never had any foreign financial interests in which he had direct control or direct ownership. Exhibit (Ex.) 9 at 29–30. However, he had previously provided foreign stock information to DOE in a 2010 Questionnaire for National Security Positions (2010 QNSP) and subsequent 2010 Personnel Security Interview (PSI). Ex. 10 at 42–43; Ex. 11 at 10. In a letter of interrogatory (LOI) response from February 2023, the Individual stated that he did not report the stocks on the 2022 QNSP because he was unaware that the stocks were foreign financial interests. Ex. 6 at 1.

[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.

In the 2022 QNSP, the Individual certified that his security clearance application was denied by the Department of Defense (DoD) in 1999 because he failed to list a 1993 "Driving While Ability Impaired" conviction; however, the DoD decision denying his security clearance shows his clearance was denied for willfully falsifying information regarding his alcohol and drug use, his alcohol dependence and continued consumption, and his history of criminal activity. Ex. 12 at 63–75. Additionally, in his 2022 QNSP, the Individual failed to report alcohol related treatment that he received in 1997. Ex. 9 at 41. When asked about his alcohol use in an enhanced subject interview (ESI) in October 2022, the Individual stated that his use of alcohol had never been abusive in nature, and he had never been professionally diagnosed as abusing alcohol or dependent on alcohol. Ex. 5 at 1. However, the 1999 DoD decision reflects that the Individual was diagnosed as Alcohol Dependent with Physical Dependence in 1997, and the Individual acknowledged this diagnosis in the 2010 PSI. Ex. 11 at 15.

In March 2023, the Individual underwent an evaluation with a DOE contractor psychologist (DOE Psychologist). Ex. 7. As a result of this evaluation, the DOE Psychologist determined that the Individual met the criteria for an Unspecified Alcohol-Related Disorder, which she stated was an Alcohol Use Disorder (AUD), and that he had been habitually consuming alcohol in a manner which would impair his judgment, reliability, and trustworthiness. Ex. 7 at 6–7.

Due to unresolved security concerns, the Local Security Office (LSO) began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline E (Personal Conduct) and Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Ex. 1. The Notification Letter informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. The Individual submitted eight exhibits into the record (Ex. A through H) and presented his own testimony. The DOE Counsel submitted twelve numbered exhibits into the record (Ex. 1 through 12) and presented the testimony of the DOE Psychologist and an expert on alcohol testing (DOE Expert).

II. Notification Letter and Associated Security Concerns

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. Ex. 1. That information pertains to Guideline E and Guideline G of the Adjudicative Guidelines. *Id.* Under Guideline E, "[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines at ¶ 15. Of particular concern "is any failure . . . provide truthful and

candid answers during national security investigative or adjudicative processes." *Id*. Regarding Guideline E, the LSO cited the omission of information about the Individual's foreign financial interests in the 2022 QNSP and the discrepancy between what he reported in his 2010 QNSP and in his 2023 LOI regarding his foreign financial interests. Ex. 1 at 1. The LSO also cited the omission of information in his 2022 QNSP regarding his 1997 alcohol counseling, inaccurate information in his 2022 QNSP regarding the reason his security clearance was denied by DoD in 1999, and the omission of his alcohol related diagnosis in his 2022 ESI. *Id*. at 1–2. The derogatory information cited by the LSO justifies the invocation of Guideline E.

Under Guideline G, "[h]abitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder" or "[d]iagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder" can raise a security concern. Adjudicative Guidelines at ¶ 22(c), (d). As a basis for invoking Guideline G, the LSO cited the DOE Psychologist's conclusion that the Individual met the diagnostic criteria for Unspecified Alcohol-Related Disorder and that he has "been consuming significant amounts of alcohol, either by binging or drinking significant amounts of alcohol on a frequent basis (habitually), which would impair his judgment . . . ." *Id*. at 2. The derogatory information cited by the LSO justifies the invocation of Guideline G.

III. Regulatory Standards

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

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Findings of Fact and Hearing Testimony

The Individual was arrested and charged with various alcohol-related offenses in 1976, 1993, and 1997. Ex. 7 at 3–4. As a result of the last arrest the Individual was fined; his license was suspended; and he was ordered to complete a three-month alcohol treatment program, where he

was diagnosed with Alcohol Dependence with Physical Dependence. Ex. 12 at 65. In October of 1999, the Individual was arrested for Driving While Intoxicated (DWI). *Id.* He was ordered to complete a second outpatient treatment program. Ex. 7 at 4. After completing this outpatient program, the Individual attended Alcoholics Anonymous (AA) meetings.[2] *Id.*

In or around 1999, the Individual applied for a security clearance with DoD. Ex. 12 at 64. DoD denied his application on the basis of: knowingly and willfully falsifying information regarding his alcohol and drug use, his history of alcohol dependence and continued consumption of alcohol after a diagnosis of alcohol dependence, his history or pattern of criminal activity, and providing false information to DoD. *Id.* at 64–75.

In 2010, a DOE contractor requested a security clearance on the Individual's behalf. Ex. 11 at 2. The Individual completed the 2010 QNSP as a part of that background investigation. Ex. 10. In that QNSP, the Individual disclosed that he owned two foreign stocks. *Id.* at 42–43. The Individual was then asked to sit for a PSI. Ex. 11 at 2. During that interview, the Individual discussed two foreign stocks that he owned and his diagnosis with alcohol dependence. *Id.* at 11, 16.

In the 2022 QNSP, the Individual certified that he had never had any foreign financial interests.[3] Ex. 9 at 29–30. He also certified that the only counseling related to alcohol that he had ever undergone was in 2000. *Id.* at 41. Further, he stated that he had been denied a security clearance by DoD in 1999 due to failure to disclose a "Driving While Ability Impaired" conviction. *Id.* at 43. In the 2022 ESI, the Individual told the investigator that his alcohol use had never been "abusive in nature" and that while he had completed alcohol-related treatment, he had never been professionally diagnosed as abusing alcohol or as being dependent. Ex. 12 at 77. The Individual was asked to complete an LOI in 2023, where he stated that he had been unaware that the two stocks that he had owned were foreign financial interests, which accounted for why he did not report them in the 2022 QNSP.[4] Ex. 6 at 1.

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[2] The Individual provided inconsistent accounts of how long he participated in AA. The Individual informed the DOE Psychologist that he had attended AA for approximately "one-and-a-half years after completing [the alcohol treatment] program." Ex. 7 at 4. At the hearing, the Individual testified he did not recall what he told the DOE Psychologist, but he knows he attended AA until 2008 or 2009. Tr. at 9.

[3] The QNSP asked:

> Have you, your spouse or legally recognized civil union/domestic partner, cohabitant, or dependent children EVER had any foreign financial interests (such as stocks, property, investments, bank accounts, ownership of corporate entities, corporate interests or exchange traded funds (ETFs) held in specific geographical or economic sectors) in which you or they have direct control or direct ownership? (Exclude financial interests in companies or diversified mutual funds or diversified ETFs that are publicly traded on a U.S. exchange.).

Ex. 9 at 39–40. The Individual responded, "No." *Id.* at 40.

[4] At the hearing, the DOE Counsel conceded that the QNSP asked individuals to only report foreign financial interests that are not traded on a U.S. exchange. Tr. at 14. He also stated that to the best of his knowledge, the foreign stocks at issue here were traded on a U.S. exchange, and, as such, the failure to report these foreign stocks did not present a security concern. *Id.*

In March 2023, the Individual was evaluated by the DOE Psychologist. Ex. 7. After the evaluation, the DOE Psychologist concluded, based on the results of Phosphatidylethanol (PEth) testing, that the Individual had been consuming "significant" amounts of alcohol and that such consumption would impair his judgment. *Id*. at 6–7. The PEth test the Individual underwent as part of his evaluation was positive with a value of 156 nanograms per milliliter, which the DOE Expert, who interpreted the test results, noted was consistent with an average alcohol consumption of four drinks per day, a total that is significantly higher than the Individual's self-report of approximately nine drinks per week.[5] *Id*. at 5. The DOE Psychologist also diagnosed the Individual with Unspecified Alcohol-Related Disorder. *Id*. at 7. She recommended that the Individual abstain from alcohol for at least six months and provide laboratory proof that he had abstained in the form of monthly PEth tests. *Id*. The DOE Psychologist also recommended that the Individual complete at least six months of alcohol rehabilitation counseling, either in the form of individual counseling, a twice weekly group outpatient program, or twice weekly meetings of Alcoholics Anonymous (AA) or a similar program. *Id*.

At the hearing, the Individual first testified about his foreign stock ownership. Tr. at 11. He explained that it was his understanding that because the two stocks he owned were publicly traded on the New York Stock Exchange, the QNSP did not actually require him to list the stocks as foreign interests. *Id*. at 12.

Regarding the alcohol treatment that DOE alleged he underwent in 1997, the Individual testified that he had no records of that treatment and no recollection of the treatment occurring. *Id*. at 15, 17, 20. He acknowledged that he had a DWI in 1997 and said that he "suspects [he] did go through treatment then." *Id*. at 15. The Individual further explained that the information regarding his alcohol use that he provided in his 2022 QNSP was copied from his 2010 QNSP, from which he had successfully obtained a clearance. *Id*. at 15–16. In his view, because the information that he provided was sufficient in 2010, he did not think he needed to change it when filling out his 2022 QNSP. *Id*. at 16.

During his testimony, the Individual also stated that during his 2022 ESI, he never told the investigator that his alcohol use was never abusive in nature. *Id*. at 22. The Individual testified that his alcohol consumption in the 1990s was abusive in nature and explained that is why he sought out treatment.[6] *Id*. at 25. The Individual also stated that he had been diagnosed as abusing alcohol and had been diagnosed as alcohol dependent, but he could not recall when that diagnosis was made. *Id*. He testified that he thought it was possible that the ESI investigator did not hear him properly because the interview took place in a semi-public area of a DOE facility. *Id*. at 22–23.

[5] When the DOE Expert provided the DOE Psychologist a letter interpreting the Individual's PEth results, he stated that the Individual's self-reported alcohol consumption was approximately five drinks per week. Ex. 7 at 5. At the hearing, the Individual clarified that his self-report was approximately nine drinks per week, and the DOE Expert stated there was a miscommunication between himself and the DOE Psychologist due to ambiguous phrasing of the Individual's self-reported consumption. Tr. at 44, 59–61.

[6] The Individual did not provide any documentary evidence or additional testimony that showed he participated in any treatment programs that were not court-ordered. He did testify that he attended regular AA meetings of his own volition. Tr. at 9.

When asked if the investigator had said they were unable to hear the Individual during the interview, the Individual said the investigator had not expressed any such concern. *Id*. at 23.

The Individual stated that he had completed an alcohol treatment program in 2000, and after the completion of that program, he attended weekly AA meetings until 2008 or 2009. *Id*. at 38. He further stated that he did not consume any alcohol between 2000 and 2008, but from 2008 to the time of the hearing he engaged in regular "moderate" alcohol consumption. *Id*. at 42. The Individual stated that he typically consumes one beer on weeknights with his dinner and two beers each weekend night.[7] *Id*. at 36. When asked why he resumed consuming alcohol, the Individual said that he "felt confident that he could drink responsibly" and could "control it." *Id*. at 34–35. He also explained that he felt that if he was consuming four alcoholic drinks a day as the DOE Psychologist had implied in her report, he would not be able to function. *Id*. at 35. The Individual also testified that he did not follow any of the recommendations made by the DOE Psychologist in her report. *Id*. at 46–47.

The Individual testified that he was "not in possession of the information from the DoD as to why they denied my clearance application in 1999." *Id*. at 32. He explained that he had reported this denial of a clearance from DoD on both his 2010 QNSP and his 2022 QNSP, and in both cases had attributed the denial to the fact that he had failed to report a "Driving While Ability Impaired" conviction. *Id*. He also noted that in 2005 he successfully obtained a secret clearance from DoD after he had reported his 1999 denial in the same fashion. *Id*.

The DOE Expert is a psychiatrist who interpreted the results of the Individual's PEth test. *Id*. at 49, 58. He testified that PEth is a biomarker that is formed after a person ingests ethyl alcohol, a compound found in alcoholic beverages. *Id*. at 51–52. The biomarker has a particularly long half-life, which has allowed epidemiological and laboratory studies to determine a rough correlation between PEth and the amount of alcohol a person has consumed. *Id*. at 52. A PEth value can vary because the PEth may have a half-life of anywhere between three and nine days, and it can also vary based on the amount a person is drinking, how often a person is drinking, or how recently a person has been drinking. *Id*. at 52–53. The DOE Expert stated that most people have a PEth half-life of around six days, and half-lives are distributed like a bell curve, where most people have a half-life between five and seven days and some extreme outliers have three or nine-day half-lives. *Id*. at 57.

The DOE Expert explained that while it is possible that the Individual's self-reporting of his alcohol consumption was accurate, based on the results of the PEth test, it is more likely than not that the Individual was underreporting his alcohol consumption. *Id*. at 65–67. The DOE Expert also noted that a positive PEth result alone is not sufficient to diagnose a person with an AUD. *Id.* at 71, 74, 95.

[7] The Individual spent much of his testimony disputing that his PEth results were inconsistent with his self-reported alcohol consumption, basing his knowledge on his reading of scientific articles. Tr. at 41. He stated that based on his research, his PEth result of 156 ng/mL was consistent with "moderate" drinking of two to four drinks per night. *Id.* at 42. He continued on to say that this was consistent with his self-reported alcohol consumption of one drink with dinner most weeknights and one to two drinks each weekend night. *Id*. at 41–42. However, given that he is not qualified as an expert on PEth testing, I do not afford much if any weight to his testimony on this subject.

The DOE Psychologist testified that her conclusion that the Individual met the criteria for a diagnosis of Unspecified Alcohol-Related Disorder was based on the Individual's history of DWI arrests, his history of minimizing reports of alcohol consumption, his past diagnosis of Alcohol Dependence with Physical Dependence, and the results of his PEth test. *Id*. at 97. She specifically noted that she had ongoing concerns about the fact that the Individual consumed alcohol at all, because "lifelong abstinence is what is almost unanimously recommended for someone who's had physical dependence." *Id*. at 100, 105. She further stated that nothing that she heard during the hearing caused her to modify her diagnosis and that the Individual had not been rehabilitated or reformed from that disorder. *Id*. at 104.

V. Analysis

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

A. Guideline E

The Adjudicative Guidelines provide that conditions that may mitigate security concerns under Guideline E include:

> (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
> (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
> (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
> (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
> (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
> (f) The information was unsubstantiated or from a source of questionable reliability; and
> (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the

> individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Id. at ¶ 17.

First, I will address the concerns related to the Individual's foreign stock ownership. During the hearing, the Individual testified that the foreign stocks he owned were publicly traded on the New York Stock Exchange, and based on his reading of the QNSP, that meant he did not need to report the foreign stocks. After reviewing the QNSP, DOE Counsel agreed with the Individual's reading of the question. As such, I find those concerns to be not properly invoked under Guideline E.

The LSO cited three other pieces of information that the Individual omitted during the security clearance process: his past alcohol treatment, his alcohol dependence diagnosis, and the reason behind the denial of his clearance by the DoD in 1999. During the hearing, the Individual testified that he did not report or did not fully report these pieces of information because he did not recall the event happening and/or did not have access to the relevant records. Failure to remember and lack of records do not absolve an individual of the obligation to report information fully and accurately on a QNSP. As such, I find that those explanations do not mitigate the Guideline E concerns.

Regarding mitigating factor (a), there is no evidence in the record that shows the Individual attempted to correct the omissions that he made in his 2022 QNSP or the omissions made in his 2022 ESI before he was confronted with them. As such, mitigating factor (a) does not apply. *Id.* at ¶ 17(a). Turning to mitigating factor (c), the omissions in both the 2022 QNSP and 2022 ESI occurred in the fourteen months prior to the hearing. Because of the recency of these multiple omissions, I cannot say that the offenses were so minor, occurred so long ago, or were so infrequent that they do not cast doubt on the Individual's reliability, trustworthiness, or good judgment. Further, the Individual did not allege that the events occurred under unique circumstances. As such, mitigating factor (c) does not apply here. *Id.* at ¶ 17(c).

There has been no allegation that the Individual's omissions were the result of advice of legal counsel or some other person with professional responsibility for instructing the Individual in the security clearance process, so mitigating factor (b) does not apply. *Id.* at ¶ 17(b). As to mitigating factor (d), there is no allegation that the Individual's omissions have been remedied by counseling or other steps taken to remedy the behavior. Therefore, mitigating factor (d) is not applicable. *Id.* at ¶ 17(d).

The Individual presented no evidence to suggest that the information about the Individual's omissions was unsubstantiated or unreliable, so mitigating factor (f) does not apply. *Id.* at ¶ 17(f).

Regarding mitigating factor (e), there is no assertion that the Individual's omissions made him vulnerable to exploitation, manipulation, or duress. Therefore, mitigating factor (e) does not apply. *Id.* at ¶ 17(e). As to mitigating factor (g), there has been no allegation that the Individual was involved in criminal activities, so the mitigating factor does not apply here. *Id.* at ¶ 17(g).

Therefore, I cannot conclude that the Individual has mitigated the security concerns under Guideline E.

B. Guideline G

The Adjudicative Guidelines provide that conditions that may 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.

Id. at ¶ 23.

Regarding mitigating factor (a), the DOE Psychologist diagnosed the Individual with Unspecified Alcohol-Related Disorder in 2023. This diagnosis followed multiple alcohol-related convictions spanning back to the 1970s, multiple alcohol-related treatments, and a previous diagnosis of physical dependence on alcohol. Additionally, the Individual continued to regularly consume alcohol, up to the date of the hearing, despite DOE's stated concerns about his alcohol consumption. As such, I cannot say that so much time has passed or the behavior was so infrequent that it is unlikely to recur or does not cast doubt on the Individual's current reliability, trustworthiness, or judgment. Further, while the Individual has alleged that his most recent diagnosis was based on out-of-the-ordinary PEth results, the DOE Psychologist testified that her diagnosis was not based solely on those results. Further, the DOE Expert testified that it was more likely than not that the Individual was underreporting his alcohol consumption rather than the Individual having extraordinary PEth results. As such, I cannot find that the Individual's circumstances are unusual. Therefore, mitigating factor (a) is not applicable. *Id.* at ¶ 23(a).

While the Individual acknowledged that his alcohol use in the 1990s was maladaptive, he testified that he did not believe his current alcohol consumption was concerning. Further, he testified that he has not followed the recommendations the DOE Psychologist. As the Individual has not acknowledged his current maladaptive alcohol use, has not shown any evidence of actions taken to overcome this problem, and has not established a pattern of modified consumption or abstinence in accordance with treatment recommendations, I find that mitigating factor (b) does not apply. *Id.* at ¶ 23(b).

The Individual does not allege that he is currently participating in a counseling or treatment program, nor that he has successfully completed a treatment program since he was evaluated by the DOE Psychologist. Therefore, mitigating factors (c) and (d) are not applicable here. *Id.* at ¶ 23(c), (d).

For the reasons discussed above, I conclude that the Individual has not mitigated the security concerns under Guideline G.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guideline E and 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 SSC. Accordingly, the Individual has not demonstrated that granting his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I find that the Individual's security clearance should not be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Richard A. Cronin, Jr.
Administrative Judge
Office of Hearings and Appeals