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**United States Department of Energy  
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing )  
Filing Date: August 15, 2023 ) Case No.: PSH-23-0118  
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Issued: December 26, 2023

**Administrative Judge Decision**

Brenda B. Balzon, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (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**

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. On January 9, 2023, the Individual tested positive for alcohol on a random breath alcohol test (BAT) administered to him by his employer. Exhibit (Ex.) 8 at 37–38. As a result, the Local Security Office (LSO) instructed the Individual to complete a Letter of Interrogatory (LOI), which he signed and submitted in April 2023. Ex. 9. Subsequently, the Individual underwent a psychological evaluation by a DOE consultant psychologist (DOE Psychologist) in May 2023. Ex. 10. After evaluating the Individual, the DOE Psychologist diagnosed the Individual with Alcohol Use Disorder (AUD), Mild, and opined that he presents as a habitual drinker of alcohol. *Id.* at 71.

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 that the derogatory information raised security concerns under Guideline E (Personal Conduct) and Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Ex. 1.

<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.

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 twelve numbered exhibits (Ex. 1–12) into the record, and presented the testimony of the DOE Psychologist at the hearing. The Individual submitted six lettered exhibits (Ex. A–F) into the record, and presented the testimony of five witnesses, including himself.

## **II. Notification Letter and Associated Security Concerns**

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

Guideline E (Personal Conduct) provides:

Conduct 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. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Adjudicative Guidelines at ¶ 15. In invoking Guideline E, the SSC cited the DOE Psychologist’s report (Report), which stated that the Individual denied any alcohol consumption since April 9, 2023, however, his Phosphatidylethanol (PEth) test dated May 8, 2023, was positive at a level of 56 ng/mL, which was consistent with a medium level of alcohol consumption. Ex. 1 at 5. The SSC also cited the Individual’s January 9, 2023, positive BAT test result; the Individual’s admission that he violated the Human Reliability Program’s (HRP) policies regarding not reporting to work within eight hours of consuming alcohol and not reporting to work under the influence of alcohol; and the Individual’s admission that his positive BAT result was a violation of his employer’s rules of reporting to work under the influence of alcohol. *Id.* The above allegations justify the LSO’s invocation of Guideline E.

Guideline G (Alcohol Consumption) provides that “[e]xcessive 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 Psychologist’s May 2023 determination that the Individual met the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)* criteria for AUD, Mild, and presents himself as a “habitual drinker,” without adequate evidence of rehabilitation or reformation. Ex. 1 at 5. Additionally, the LSO cited the Individual’s May 8, 2023, positive PEth test; the Individual’s January 9, 2023, positive BAT result of .051, and the Individual’s admission that on January 8, 2023, he consumed beer from 1:00 p.m. to 9:30 p.m. and experienced a prolonged buzzed feeling. *Id.* at 6. 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. *Id.* at § 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**

On the morning of January 9, 2023, the Individual completed a random BAT and his confirmatory test result was .051. Ex. 4 at 18; Ex. 8 at 38. In his April 2023 LOI, he stated that on January 8, 2023, the date before his BAT, his son was home from college and while spending time at his house with him, the Individual consumed beer from approximately 1:00 p.m. until approximately 9:30 p.m. Ex. 9 at 47. He stated that he did not keep track of how much alcohol he consumed so he was unsure of the amount he drank. *Id.* He acknowledged his awareness of his employer's policies and the HRP policy which prohibits alcohol consumption within eight hours of reporting to work (“the eight hour rule”), and prohibits reporting to work while under the influence of alcohol. *Id.* at 48. The Individual stated that he did not violate the policy intentionally. *Id.* He stated that he did not feel intoxicated when he arrived at work on January 9, 2023, but admitted that he felt a “prolonged buzz[ed] feeling” and “a little tired.” *Id.* He reported that, as a result of his positive BAT, he was suspended for four days without pay, temporarily removed from HRP, and directed to be evaluated by a Licensed Professional Counselor (LPC). Ex. 9 at 48; Ex. 4 at 18. An Incident Report dated February 8, 2023, states that as part of his HRP requirement, the Individual was required to attend a substance abuse evaluation by the LPC and comply with all recommendations of the evaluation. Ex. 6 at 27.

In May 2023, the Individual underwent a psychological evaluation by the DOE Psychologist. Ex. 10. The Individual's explanation for his positive BAT was consistent with his LOI response. Ex. 9 at 47–48; Ex. 10 at 62. He told the DOE Psychologist that he had focused on the “eight hour rule” and reported that he had not breached that rule. *Id.* at 62–63. The Individual emphasized to the DOE Psychologist his intention to comply with company policies and stated that he had quickly followed the recommendation to begin an intensive outpatient program (IOP), and planned to attend the aftercare program. *Id.* at 63, 66.

The Individual told the DOE Psychologist that prior to his January 2023 BAT, he drank “some [alcohol] on weekdays” but usually drank on weekends when his adult children or friends visited his

house. *Id.* at 64. When the DOE Psychologist pressed the Individual to provide more specificity, he stated that he typically consumed between six and 15 beers total throughout the course of a week, including six or more beers at one sitting probably once per week. The DOE Psychologist noted that the Individual did not always know, or want to acknowledge, what his quantity of alcohol consumption was. *Id.* at 66. He noted that the Individual had an apparent lack of awareness regarding when he reached intoxication and had expressed a belief that he could drink alcohol all day and feel a “buzzed state” without impairment or concern. *Id.* at 70.

The Individual reported that he had not consumed any alcohol since just before Easter (before April 9, 2023). *Id.* at 68. As part of the evaluation, the Individual underwent a PEth test, which was positive at a level of 56 ng/mL. *Id.* at 87. According to the medical doctor who interpreted the PEth test results, the Individual’s PEth level “readily indicates that [the Individual] ingests at least 2–4 standard per day drinks or had binged rather heavily within the previous few weeks,” and the Individual’s PEth result is “not consistent with alcohol abstinence or consuming less than two drinks per day.” *Id.* at 69.

When asked about his future intentions with alcohol use, the Individual stated that he did not plan on drinking alcohol, but expressed allowances for exceptions such as holidays where he might continue to consume alcohol. *Id.* at 66, 70. He told the DOE Psychologist that he wishes to follow a long-term model of abstinence, but he had not yet committed to it. *Id.* at 66.

As stated above, the HRP required the Individual to attend a substance abuse evaluation with the LPC. Ex. 6 at 27. The DOE Psychologist’s Report included a summary of his discussion with the Individual’s treating LPC from his IOP that had conducted the Individual’s alcohol evaluation. Ex. 10 at 67. The treating LPC verified the Individual’s ongoing participation in the IOP. *Id.* The treating LPC noted that the Individual has “perhaps an element of suspiciousness in the [IOP] group process,” although the LPC perceived him as being generally forthcoming in the therapy groups. *Id.* at 68. The Report stated that the LPC opined that the Individual will likely increase his participation in the group, particularly in light of the anticipated turnover of some very dominating group members. *Id.* The Report also stated that the LPC “tends to believe [the Individual’s] claim of abstinence and his discontinuation of the use of alcohol since about Easter of this year.” *Id.*

The DOE Psychologist noted that the Individual manifested behaviors suggestive of some situational anxiety, primarily when addressing questions related to his alcohol use. *Id.* at 70. He found that the Individual frequently quantified his use of alcohol in vague terms such as “sometimes, perhaps, maybe” along with vagueness regarding his drinking patterns. *Id.* The DOE Psychologist opined that the Individual “never appeared to be overtly manipulative, but he was evasive regarding alcohol consumption.” *Id.* at 67. He also noted that the Individual demonstrated an element of anxiety regarding his fear of losing his job and expressed a willingness to take daily Breath Alcohol Content (BAC) tests if it would save his job.<sup>2</sup> *Id.* at 66. The DOE Psychologist also concluded that the Individual’s positive PEth test, despite the Individual’s statements that he had maintained several weeks of abstinence, generated concerns regarding the trustworthiness the Individual’s reporting of his alcohol usage and generated questions about his commitment to abstinence. *Id.* at 70. Ultimately, the DOE Psychologist concluded that the Individual met the diagnostic criteria for AUD, Mild, and presented as a habitual drinker. *Id.* at 71. The DOE Psychologist recommended that the

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<sup>2</sup> The Report uses the acronym “BAC” interchangeably to refer to Breath Alcohol Test (BAT). See Ex. 10 at 61 (Report uses the term BAC to refer to the Individual’s January 2023 positive BAT).

Individual could demonstrate rehabilitation or reformation by completing his IOP and completing a full year of abstinence, evidenced by negative PEth tests. *Id.* The DOE Psychologist opined that if the Individual continued in aftercare through that year and was in counseling, “the primary providers might have data to render an opinion of abbreviating this timeframe a bit,” although he stated a year would likely result in a more positive outcome. *Id.* He further recommended that the Individual attend aftercare twice per week until his treating LPC and other IOP providers advise that it was no longer needed, and attend individual counseling with a therapist until the therapist recommended termination when treatment goals were met. *Id.* The DOE Psychologist also recommended that the Individual participate in Alcoholics Anonymous (AA) including obtaining a sponsor, and continue alcohol testing, including ongoing PEth testing and additional random testing. *Id.*

At the hearing, the Individual’s son, who is in his second year of college, testified that between January 2023 and May 2023, he visited the Individual approximately every two weeks. Tr. at 13, 18. He corroborated the Individual’s statements to the DOE Psychologist that he consumed beer together with the Individual on January 8, 2023, at the Individual’s house. *Id.* at 25; Ex. 10 at 62. The son further testified that the last time he last observed the Individual consume alcohol was “before this last summer.” Tr. at 17. He stated that when he moved back to the Individual’s house in May for the summer, he noticed that the Individual no longer kept alcohol in the house, which differed from the Individual’s past behavior when he previously kept beer in his refrigerator. Tr. at 13. He further stated that he did not observe the Individual consume any alcohol between when he moved back in May 2023 until he returned to college at the end of the summer. *Id.* at 14–15. The son testified that at the beginning of the summer and again at the end of the summer, the Individual told him that he was no longer consuming alcohol was never going to consume it again. *Id.* at 20. The son stated that he was surprised when the Individual told him that he was abstaining from alcohol because it seemed his abstinence started suddenly, and the son stated that it made him feel happy for the Individual. *Id.* at 19. The son also testified that the Individual told him that he was attending AA meetings for work, and the son stated that the father continued to attend AA meetings in the evenings throughout the summer. *Id.* at 14.

The Individual’s colleague and friend (Colleague) and another coworker who is also his friend (Coworker) testified that they have both known known the Individual for nearly 13 years and they interact with him closely and regularly. *Id.* at 28, 43–44. They both testified that in January 2023, the Individual told them that he had a positive BAT, and the Coworker testified that the Individual has expressed remorse and taken accountability whenever they have spoken of the incident. *Id.* at 28–29, 37, 45, 48. The Colleague stated that he saw the Individual on the date of his positive BAT, but stated he did not notice any signs of the Individual appearing under the influence of alcohol at the workplace on that date. *Id.* at 38. He and the Coworker testified that they have never observed any indications at the workplace that the Individual was consuming alcohol. *Id.* at 38, 55–56. The Colleague and the Coworker also stated that they had each last seen the Individual consume alcohol over a year ago. *Id.* at 39, 48–49.

The Colleague and the Coworker both testified that the Individual has discussed with them his participation in alcohol treatment and what he has learned from attending his program and other treatment meetings. *Id.* at 30, 39–40, 41, 46. He also testified that the Individual discussed his future intentions involving alcohol and told him that he plans to abstain from alcohol because the BAT incident has caused him too many problems. *Id.* at 31, 39. The Colleague further testified that he believes the Individual is completely committed to staying sober. *Id.* at 33. The Coworker stated that

the Individual told her he is attending treatment because he is committed to completing the list of requirements he needs to complete to return to work. *Id.* at 50. She testified that the Individual also told her that he found a treatment meeting he attends where he enjoys the relationships that he has been building, and she has observed that he has remained positive throughout the treatment process. *Id.* at 46, 49. She further stated that the Individual told her that he no longer keeps alcohol in his house *Id.* at 46. The Colleague and the Coworker both testified that they have never had reason to question the Individual's honesty, judgment, or reliability. *Id.* at 31–32, 44–45.

The Individual testified that he believes he has an AUD, and does not dispute the DOE Psychologist's diagnosis. *Id.* at 58–59. He stated that he used to drink to “get a buzz,” but he has since learned through his education in treatment that he is a binge drinker, and that when he previously thought he was maintaining a “buzz,” he was too often intoxicated. *Id.* at 60. He also testified that he previously had believed that the “eight hour rule” meant that as long as he did not drink alcohol within eight hours of reporting to work, it was ok to consume alcohol; however, his current understanding is that when a person consumes alcohol, it may stay in his system beyond eight hours regardless of the “eight hour rule.” *Id.* at 62–63. The Individual admitted that after his positive BAT in January 2023, he made “a very poor decision” to continue to consume alcohol for a few months because he was wrongly “just thinking [he] needed to manage [it] better.” *Id.* at 63–64. He testified that he has since learned from his IOP and AA that he will never be able to wisely manage alcohol use, and he realized that he needed to stop consuming alcohol. *Id.* at 64.

The Individual testified that he started participating in the IOP on approximately April 25, 2023. *Id.* at 104. He stated that while his initial motivation for attending the IOP was that his job recommended it, his perspective changed after a couple of weeks of his participation in the program. *Id.* at 106–07. He stated that at first he was hesitant and standoffish because he had never attended any counseling or alcohol treatment. *Id.* at 68–69. However, he explained that as he was listening to the counselors, he realized that nothing about his past alcohol consumption was “normal.” *Id.* at 68–69. He stated that the more he learned and participated, his motivation for why he wanted to attend IOP changed to where he recognized and wanted a “better . . . different way of life.” *Id.* at 107. The Individual testified about his notebook, which contains the notes he takes about alcohol use and what he has learned from IOP, and the handouts he still reviews that were provided to him from his IOP classes. *Id.* at 69–70. The Individual provided a certificate of completion of his IOP dated June 21, 2023. Ex. A.

The Individual testified that he currently attends aftercare on Mondays and Wednesdays. *Id.* at 78. He stated that aftercare helps him maintain what he has done in IOP, and he stated that it is sometimes more advanced in content because he also learns new information. *Id.* at 70. The Individual also stated he likes the fact that some topics in aftercare are discussed repeatedly because it reinforces what he has learned in IOP. *Id.* at 71. He also testified that he likes aftercare because it gives him the opportunity to speak during group meetings to share his perspective and encourage the newer participants who feel uncomfortable or hesitant about the program. *Id.* at 71–72.

The Individual testified that he currently attends AA twice per week, and he introduces himself as an alcoholic at his AA meetings. *Id.* at 77–78. He testified that he sought assistance from one of his IOP counselors who had experience with AA, who helped the Individual find an AA group that was a good fit for him. *Id.* at 73–74. The Individual has been attending this AA group since the IOP counselor suggested the group to him. *Id.* at 74, 78, 108. He stated that he likes his AA group because the meetings are very structured, and provided examples of the different components of the meetings.

*Id.* at 74–75. He stated he also likes his current AA group because the group members consistently encourage him, are very welcoming of him, and motivate his ongoing participation by their genuine sense of caring and support. *Id.* at 75–76. The Individual testified that he has been attending AA since July 2023, and has overall been attending AA twice a week except for a few Thursdays during the beginning months when he had time conflicts from his temporary second job that he took to assist his son. *Id.* at 108–09. In support of his testimony, the Individual submitted signed AA attendance sheets from his current AA group dated July 25, 2023, through November 2, 2023. Ex. D; Ex. F.

The Individual also testified regarding the 12-Step work he has been doing with his sponsor. Tr. at 77–80, 82–85, 109–111. He testified that it took him time to find a sponsor because he wanted someone who had a lot of experience and knowledge about AA that would be helpful in working with him. *Id.* at 77–78. He testified that he has been working with his current sponsor for at least two months, and his sponsor has 25 years of experience. *Id.* at 82, 109. The Individual testified that he meets with his sponsor at least once every week, and he testified about the work they did on the third step of AA which involves issues of spirituality. *Id.* at 82–85, 110. He testified that he is currently working on Step 4 of AA with his sponsor, and he described his Step 4 assignment of creating a list of his resentment as part of a moral inventory. *Id.* at 110–11. He further testified that he has read the first 164 pages of the Big Book multiple times, and has highlighted and taken notes in his book regarding concepts that he finds meaningful and that were emphasized by his sponsor. *Id.* at 82.

In addition, the Individual testified that he currently attends individual counseling with his treating LPC, and has been doing so for approximately three months. *Id.* at 112. He stated that his LPC also teaches the IOP as one of the counselors so he had also previously met with him during the IOP. *Id.* He testified that he usually meets with this LPC approximately every two weeks. *Id.* at 112–13. The Individual testified that in his counseling sessions, they focus on alcohol issues, the Individual's involvement with AA, his anxieties and feelings, and life issues that have led him to his current situation, and they work on how he can improve and “live a different type of life than [he] had before.” *Id.* at 87. He stated that his LPC is supportive of his AA journey, and he provided an example of a topic they discussed related to the Individual's emotional sobriety. *Id.* at 88. He stated the LPC gave him a piece of literature about emotional sobriety which the Individual carries with him in his Big Book, and which is particularly significant to him because “for so many years I was doing the wrong things. And now, I'm doing the right thing, and that's how I want to live.” *Id.* at 88–89.

The Individual testified that he has not consumed any alcohol since approximately Easter, April 9, 2023. *Id.* at 94–95, 118. He stated, “I can't be dishonest and say that I had anything when I had not. I know in my heart that it's the truth, you know. I know the PEth test c[a]me back with a 56, but I'm not going to sit here and say that I drank since then or admit that I drank since then when I have not.” Tr. at 95. He stated that he thinks his positive PEth test was due his alcohol use that occurred prior to when he stopped drinking alcohol that “carried over and still hadn't gotten all the way out of my system from when I drank – I stopped drinking around Easter.” *Id.* at 99–100. He further stated that he was drinking “pretty heavily” prior to his last alcohol use in April, and that he does not doubt that his volume of consumption could have possibly been more than he reported during his evaluation because he never kept count of how much alcohol he was consuming. *Id.* at 98. The Individual stated that although at the time of his evaluation he did not think he was being evasive, he now thinks that upon reflection, it is possible he was being evasive because he was so nervous anytime he spoke about his alcohol use and was probably not thinking right or clearly at the time of his evaluation. *Id.* at 100.

The Individual testified that he had stopped consuming alcohol a few weeks before he started the IOP because he did not want to start the IOP while still consuming alcohol. *Id.* at 104. He admitted that initially after he stopped drinking alcohol in April 2023, he had initial plans to eventually consume alcohol in the future because he thought he could “just change the way he was drinking.” *Id.* at 104–05. Additionally, he stated that before he had his evaluation with the DOE Psychologist, he met with one of his union representatives who gave him some “erroneous information” by telling him that “they don’t care if you drink again.” *Id.* at 91. He admitted that he was a “slow learner” and testified that it took him approximately two weeks in the IOP until he decided that he was going to permanently abstain. *Id.* at 105. He explained that in IOP he listened to different leaders teach about alcohol issues, which caused him to reevaluate his future and decide to no longer consume alcohol. *Id.* at 68, 91, 105. He further testified that his future intention is to abstain from alcohol. *Id.* at 91. In support of his assertions of abstinence, he submitted a total of six negative PEth tests from June 2023 through October 2023, and six additional negative random BAT tests from January 2023 through September 2023. Ex. B; Ex. C; Ex. E.

The Individual testified that he recognizes that IOP, aftercare, AA, and individual counseling have been very helpful to continuing his sobriety. *Id.* at 116–17. He stated that he has “definitely changed” his former belief that he “can just do it all by [himself].” *Id.* at 116. He stated that he plans to continue attending AA “forever” because he has learned that the 12 steps are “a way of life” which has been “good for him” so he wants to continue applying those principles in his approach towards alcohol and as “a new way of living.” *Id.* at 111–12; 117; 125–26. Additionally, the Individual stated he will continue to attend aftercare as long as he is allowed to attend, and he will follow his treating LPC’s recommendation regarding how long he should continue attending individual counseling. *Id.* at 111, 117. He testified that since he has been abstaining from alcohol, he has experienced changes such as a decrease in anxiety, and improvements in his physical health. *Id.* at 90, 114. He stated he continues with a lot of his same hobbies as he did in the past including gardening and beekeeping, but he no longer consumes alcohol when he does these activities. *Id.* at 89, 115. The Individual testified that he has not had any struggles with sobriety since abstaining in April, and he makes sure he does not buy alcohol or keep alcohol in his home. *Id.* at 115. He stated that if he ever became tempted to consume alcohol, his sponsor would be the first person he would contact. *Id.* at 127–28. He also stated that his additional support system consists of his AA group, his Colleague and Coworker, one of his friends who has been sober for 12 years, and his treating LPC. *Id.* at 113.

The LPC testified that he first met the Individual on March 9, 2023, when he conducted his initial substance abuse evaluation of the Individual. *Id.* at 130, 145. He verified that the Individual started the IOP program on April 26, 2023, during which he also completed four to six individual counseling sessions with another therapist from the program. *Id.* at 145–46. The LPC stated that once the Individual acclimated to and figured out how to trust the IOP group such that he actively participated, which took approximately two to three weeks, then he and his IOP staff were very satisfied with his development throughout the IOP. *Id.* at 136. He provided examples of how the Individual became an active participant and communicator in the IOP group. *Id.* at 134. The LPC also verified that the Individual has been attending aftercare since June 26, 2023, and to date has attended 32 aftercare sessions. *Id.* at 160. The LPC opined that the Individual has shown good progress throughout aftercare and has shown positive evidence of motivating newer participants to pursue additional treatment by actively speaking about his experiences in AA. *Id.* at 134–36. The LPC recommended that the Individual continue to attend aftercare at least weekly or twice per month until 12 months when his diagnosis changes to sustained remission. *Id.* at 162.



The LPC further testified that he started treating the Individual as his individual therapist on August 4, 2023, and sees him generally biweekly for hour-long sessions. *Id.* at 146–47. He stated that he saw the DOE Psychologist’s Report and stated he generally agrees with the DOE Psychologist’s viewpoints as he has spoken to him multiple times on a professional basis, and finds that he is a very good clinician. *Id.* at 131, 147–48. The LPC testified that he and the Individual did not discuss a lot about the reports of inconsistencies regarding the Individual’s PEth test result versus his reports of drinking. *Id.* at 147. The LPC stated he has not doubted the Individual’s forthcomingness from the date of his initial substance abuse evaluation through the present. *Id.* at 145. He stated that he based his initial opinion of the Individual’s forthcomingness on the fact that he admitted during his March 2023 evaluation that he last consumed alcohol two weeks prior to the evaluation on approximately February 25, 2023. *Id.*

The LPC opined that the Individual has a positive prognosis based upon on his work with the Individual across several treatment programs including his initial evaluation, the IOP, aftercare, and individual treatment. *Id.* at 140, 143. He opined that “in every setting, I’ve seen him expand his sobriety . . . steadily throughout the whole process.” *Id.* at 143. He further attested to the genuineness of the Individual’s experience in AA, which the LPC has evaluated as part of his individual counseling sessions. *Id.* at 134–35. He stated, “it is hard to imagine him making up what he said about AA today . . . and [what] he said . . . in my individual sessions . . . you can’t invent that kind of answer, having not experienced something in that [AA] room.” *Id.* at 135. He noted that because the Individual lives alone, having a sober living support network is “absolutely paramount for his success” and the LPC discusses that quite a bit in treatment. *Id.* at 151. The LPC opined that the Individual has a robust support group that is impressive, particularly as a single person living alone and in comparison to the experiences of others that the LPC has worked with. *Id.* He indicated that time is a factor beneficial in reducing future risk as the Individual continues to become more invested in his groups and gets closer to starting to involve himself in providing service in AA, which takes time as that is in reference to Steps 11 and 12. *Id.* at 153, 163–64.

The DOE Psychologist testified that based on the testimony from the Individual’s treating LPC, the other witnesses, and the Individual, he is impressed by what has happened and concluded that “this is not the same person that I evaluated back in May.” *Id.* at 171. He opined that the Individual’s “ability to vocalize and verbalize and explain himself has improved unbelievably, and I think that’s obviously from continued sobriety for a period of time, but also from learning a great deal in his work in the IOP.” *Id.* He further testified that the Individual’s commitment to his AA program is “pretty amazing” and that he has done “very, very well” in AA. *Id.* at 171–72.

The DOE Psychologist testified that the reason he recommended 12 months of sobriety in his Report was twofold. *Id.* at 166–68. He stated that while the Individual really may have not recalled how much alcohol he had been consuming especially if he was drinking heavily, the DOE Psychologist stated that there was “an element that I would define as being a little illusive. It’s not a purposeful thing perhaps . . . but just that nobody wants to get . . . in trouble and . . . lose his job.” *Id.* at 166. He noted that the Individual even volunteered during the evaluation to take a BAT daily for the rest of his career if he could just go back to work, and the DOE Psychologist concluded that “that says a lot.” *Id.* The DOE Psychologist spoke regarding the issue of the Individual’s positive PEth test and stated that the PEth test is believed to register residual alcohol for 28 to 32 days, which he stated is an estimate “as everybody’s metabolism is different.” *Id.* at 169. He further stated that “we could . . . analyze forever,

is it possible or impossible that he did not drink and still [tested] positive,” and he indicated that the psychiatrist who interpreted the PEth result “could weigh in on this.” *Id.* at 170–71. The DOE Psychologist opined that “we have to look at where we are and assess the progress that we have from the first negative PEth test until now.” *Id.* at 171. He stated that in theory, if the Individual consumed a lot more alcohol than he thinks he may have been drinking, “I suppose it may have been possible that he showed up a month to 30 days later, roughly, and had a residual.” *Id.* at 169–70. He noted that while the Individual’s PEth score is a “pretty high residual,” he has “no way I can contradict that absolutely” so he turned his focus to “how many PEth tests in a row has he shown to be negative on.” *Id.* at 170. The DOE Psychologist explained that he puts a “great deal of weight” on the fact that someone has had several consecutive negative PEth tests. *Id.* at 170. He stated that the Individual has had approximately six negative, consecutive PEth tests. *Id.* at 170; Ex. C; Ex. E. The DOE Psychologist testified that he is confident that the Individual has been abstinent since at least May 2023, which means that he has six months or more of sobriety. *Id.* at 173.at 173.

The DOE Psychologist opined that the Individual has “attained a very substantial level of reformation and rehabilitation.” *Id.* at 173. He explained that evidence of the Individual’s reformation includes the fact that he obtained professional help “rather quickly as he was already underway [in treatment] when [he] saw him,” which the DOE Psychologist stated is not often the case. *Id.* He further opined that the Individual’s prognosis is good, especially over a year or more in the future, and that his risk of relapse within the next two years is “very low.” *Id.* at 174–75. He stated he also based his opinions on the testimony and support from the Individual’s treatment providers and from the Individual’s colleagues. *Id.* at 173. The DOE Psychologist testified that he believes the Individual is committed to completing all components of the treatment he is doing, and he opined that he does not predict a sudden change in the next six to 12 months. *Id.* at 179. He provided examples showing that the Individual has made significant changes from the time of the DOE psychological evaluation. *Id.* at 177–78. This includes the extra work and note-taking the Individual has been doing in his AA program, which the DOE Psychologist identified as an indication of the Individual’s personal motivation to change his behavior. *Id.* at 177–78. He also concluded that during the hearing, the Individual’s demonstrated ability to articulate detailed answers regarding his alcohol issues and what he has learned from treatment was “fantastically improved” over what he told the DOE Psychologist during his evaluation. *Id.* at 177–78.

## **V. Analysis**

### **A. Guideline G**

A diagnosis of alcohol use disorder by a duly qualified medical or mental health professional, including a clinical psychologist, is a condition that could raise a security concern and may disqualify an individual from holding a security clearance. Adjudicative Guidelines at ¶ 22(d). A condition that can mitigate Guideline G concerns is that 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.” *Id.* at ¶ 23(b). Another condition that can mitigate Guideline G concerns is that 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.” *Id.* at ¶ 23(c).

In this case, the record demonstrates that the Individual has acknowledged his maladaptive alcohol use, as evidenced by his testimony and the LPC's testimony regarding how his attitude and motivation towards the IOP and sobriety has changed. Additionally he acknowledges he is an alcoholic. The record contains evidence of the significant actions that he has taken to overcome his problem. First, he completed his IOP in June 2023, and continues to participate in weekly aftercare meetings. Second, he has attended AA meetings since July 2023, and continues to attend AA two times per week, presenting proof of AA attendance to support his testimony. Third, he actively works with his AA sponsor to progress in his 12-Step work and has demonstrated ongoing progress by advancing to Step 4, as attested to by his treating LPC who has assessed the impact of the Individual's AA participation on maintaining his sobriety. Fourth, the Individual has taken additional actions to maintain his sobriety by participating in individual psychotherapy to successfully address how to integrate the skills he learned through his treatment programs, and work on relapse prevention. Additionally, the Individual has 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 at least six months of abstinence, which is supported by objective evidence in the form of six negative, consecutive PEth tests and six random BAT tests. While the DOE Psychologist's Report recommended 12 months of abstinence, the DOE Psychologist opined at the hearing based on the Individual's progress, proof of documented abstinence, and testimony from the treating LPC and the Individual, that the Individual's efforts were sufficient to establish "a very substantial level of reformation and rehabilitation." Tr. at 173. For the foregoing reasons, I find that the Individual has satisfied the mitigating condition under the Adjudicative Guidelines at ¶ 23(b).

I also find the Individual has mitigated the Guideline G security concerns under ¶ 23(c). The Individual completed his IOP program and continues to attend aftercare twice per week. He has no history of prior treatment and relapse, and he continues to actively participate in AA and individual counseling. Moreover, he has demonstrated ongoing abstinence through consecutive, negative PEth tests and random BATs. Further, both his treating LPC and the DOE Psychologist opined that the Individual has a positive prognosis and is making satisfactory progress in all components of his treatment programs. Finally, the DOE Psychologist opined that the Individual's risk of relapse within the next two years is "very low." *Id.* at 175.

## **B. Guideline E**

Regarding 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. A condition that can mitigate Guideline E concerns is that 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." *Id.* at ¶ 17(d).

In this case, as the LSO's Guideline E concerns are inextricably tied to the Individual's problematic alcohol consumption, I find that the Individual has mitigated the Guideline E security concerns under

¶ 17(d) because he has resolved the alcohol-related issues, and is therefore unlikely to have similar issues of judgment and honesty in the future. As to the inconsistency between his positive May 8, 2023, PEth test and the Individual's claim that he had not consumed alcohol since April 9, 2023, the DOE Psychologist stated that if the Individual consumed a lot more alcohol on April 9 than he thinks he may have been drinking, then it is theoretically possible that his PEth result might have been caused by residual alcohol use. Moreover, the DOE Psychologist explained that regarding the credibility of the Individual's claim of abstinence, he gives great weight where there is evidence of several consecutive negative PEth tests. In this case, the Individual presented evidence of six negative consecutive PEth tests and six random negative BATs, which also lends support to his testimony of abstinence. Moreover, I find the Individual's credibility is significantly bolstered by the opinion of his treating LPC who testified that he has not doubted the Individual's forthcomingness from the date of his initial substance abuse evaluation through the present. I find further support from the DOE Psychologist's opinion that in contrast to his evasive answers regarding his alcohol use during his evaluation, the Individual's ability to articulate detailed answers regarding his alcohol issues at the hearing was "fantastically improved." *Id.* at 178.

Regarding the Guideline E concerns that the Individual admitted he violated the HRP policies that prohibit reporting to work within eight hours of consuming alcohol and prohibit reporting to work under the influence of alcohol, the Individual has acknowledged the behavior and taken actions to resolve the factors that led to the behavior. He acknowledged that he previously and erroneously had believed that the "eight hour rule" meant that as long as he did not drink alcohol within eight hours of reporting to work, it was ok to consume alcohol. He further testified that his current understanding is that when a person consumes alcohol, it may stay in his system beyond eight hours regardless of the "eight hour rule." *Id.* at 62–63. Moreover, as discussed above, the Individual has taken several actions to change his behavior and ensure that it does not recur. Specifically, he continues to attend individual counseling to support and maintain his sobriety, he completed an IOP, and he currently participates in aftercare and AA. Further, he has maintained abstinence for at least six months and corroborated his claims of sobriety through consecutive PEth tests and random negative BATs.

For these reasons, I find that the Individual has mitigated the Guideline E concern under ¶ 17(d).

## **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 E and 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 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