*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.

In the Matter of: Personnel Security Hearing )
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Filing Date: February 23, 2024 ) Case No.: PSH-24-0067
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)

Issued: May 9, 2024

**Administrative Judge Decision**

Noorassa A. Rahimzadeh, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (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 restored.

## I. Background

The Individual is employed by a DOE Contractor in a position that requires him to hold an access authorization. As part of the clearance process, the Individual signed and submitted a Questionnaire for National Security Positions (QNSP) in April 2019. Exhibit (Ex.) 4. When asked whether he had ever been hospitalized for a mental health condition, the Individual indicated that he had sought treatment for Bipolar Disorder and Anxiety in July 2014. Ex. 4 at 41–42. He also disclosed that from February 2013 through November 2013, he was consuming alcohol "to [self-medicate] for undiagnosed mental illness[.]" *Id.* at 45. Accordingly, when asked whether his alcohol consumption "negative[ly] impact[ed]" his "work performance, [his] professional or personal relationships, [his] finances, or resulted in intervention by law enforcement/public safety personnel[,]" the Individual stated that around May 2013 he left school, received counseling and treatment, and suffered damage to his personal relationships. *Id.* The Individual disclosed that he attended Alcoholics Anonymous (AA) meetings from July 2013 through July 2017. *Id.* at 46.

In November 2022, the Individual voluntarily entered inpatient treatment at a hospital for his mental health. Ex. 7 at 1. He provided information pertaining to his hospitalization to "superiors within [his] chain of command at the time of hospitalization, so they could manage his absence

[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.

accordingly." Ex. C at 4. The Individual did not report the hospitalization to the Personnel Security Office.

The Local Security Office (LSO) asked the Individual to complete a Letter of Interrogatory (LOI), which the Individual completed and submitted in January 2023. Ex. 5 at 1. In this LOI, the Individual revealed that he "struggled with [his] mental health" after taking on debt and "[self-identified] that [his] mental health was a key factor in the inability to manage [his] financial obligations." *Id.* His responses prompted the LSO to seek further information regarding his mental health. Accordingly, the LSO requested that the Individual complete two more LOIs, which the Individual signed and submitted in March 2023 and April 2023. Ex. 6; Ex. 7; Ex. 8; Ex. 10.

Following the submission of the LOIs, the LSO requested that the Individual undergo a psychological evaluation with a DOE-consultant psychologist (DOE Psychologist). Ex. 11. The Individual underwent said evaluation in August 2023, and the DOE Psychologist compiled a report (the Report) of his findings the same month. *Id.* In the Report, the DOE Psychologist diagnosed the Individual with Alcohol Use Disorder (AUD), Severe; Bipolar II Disorder; Adjustment Disorder with Anxiety; Attention Deficit Disorder (ADHD) Combine Presentation; Histrionic Personality Disorder with Dependent Personality Type; and Unspecified Personality Disorder with Masochistic Personality Type and Melancholic Personality Type. *Id.* at 7–8.

The 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 a substantial doubt regarding his continued eligibility for access authorization. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guidelines G (Alcohol Consumption), I (Psychological Conditions), and E (Personal Conduct) 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 requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf and presented the testimony of his spouse. *See* Transcript of Hearing, Case No. PSH-24-0067 (hereinafter cited as "Tr."). The Individual also submitted seven exhibits, marked Exhibits A through G. The DOE Counsel submitted twelve exhibits marked as Exhibits 1 through 12 and presented the testimony of the DOE Psychologist.

## II. Notification Letter

### A. Guideline E

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. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying concern is "[d]eliberately . . . concealing or omitting information, concerning relevant facts to an employer . . . security official . . , or other official government representative." *Id.* at ¶ 16(b). Under Guideline E, the LSO alleged that in his March 2023 LOI, the Individual revealed that "he voluntarily sought inpatient treatment in November 2022 for his mental health conditions" but failed to appropriately report his inpatient treatment to the Personnel Security Office at the time he was hospitalized. Ex. 2 at 5. The LSO's invocation of Guideline E is justified.

**B. Guideline G**

Under Guideline G, "[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. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are "[h]abitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder[,]" "[d]iagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder[,]" and "[t]he failure to follow treatment advice once diagnosed[.]" *Id.* at ¶ 22(c), (d), (e). Under Guideline G, the LSO alleged that:

a. The DOE Psychologist concluded in the August 2023 Report that the Individual suffers from AUD, Severe, without adequate evidence of rehabilitation or reformation, and he provided treatment recommendations. Ex. 2 at 1.

b. Based on the Ethyl Glucoronide (EtG) and Phosphatidylethano (PEth) test results, which registered at 11,516 ng/mL and 239 ng/mL, respectively, the DOE Psychologist concluded in the Report that the Individual "is consuming alcohol heavily and frequently." Ex. 2 at 1–2.

c. The DOE Psychologist's Report notes that the Individual has a history of binge consumption of alcohol interspersed with periods of abstinence.

d. The DOE Psychologist opined in the Report that the Individual "experienced repeated periods of alcohol abuse for which he expresses contrition and shame, and despite his efforts to change, his alcohol disorder persists." *Id.*

e. The Individual stated in the April 2023 LOI that he had "report[ed] to work with hangovers" and recounted one occasion where he drove home in an intoxicated state. *Id.*

f. The Individual admitted in the April 2023 LOI that he has been dishonest with his spouse about his alcohol consumption, causing conflict. *Id.* His spouse recommended that he seek treatment for his consumption. *Id.*

The LSO's invocation of Guideline G is justified.

### C. Guideline I

Under Guideline I, "[c]ertain emotional, mental, and personality conditions can impair one's judgment, reliability, or trustworthiness." Adjudicative Guidelines at ¶ 27. "A formal diagnosis of a disorder is not required for there to be a concern under this guideline." *Id.* Conditions that could raise a security concern and may be disqualifying include "[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness[,]" "[v]oluntary or involuntary hospitalization[,]" and "[f]ailure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness[.]" *Id.* at ¶ 28(b), (c), and (d). Under Guideline I, the LSO alleged that:

a. The DOE Psychologist diagnosed the Individual with Bipolar II Disorder, Adjustment Disorder with Anxiety, Histrionic Personality Disorder with Dependent Personality Type, and Unspecific Personality Disorder with a Masochistic Type and a Melancholic Style. *Id.* at 3.

b. The DOE Psychologist recommended that the Individual "continue his psychiatric and psychotherapeutic treatment as recommended by his mental health providers, comply with all recommendations regarding prescribed medications and psychotherapeutic treatment, [and] not use any recreational drugs or alcohol[.]" *Id.* at 3–4. The DOE Psychologist also indicated that the Individual should "not be hospitalized for any mental health issues for the next [twelve] months." *Id.* at 4.

c. The Individual stated in his April 2023 LOI, that he had been diagnosed with Bipolar Disorder, ADHD, and Post-Traumatic Stress Disorder (PTSD), and that in November 2022, he availed himself of voluntary inpatient treatment after suffering acute symptoms, including suicidal thoughts. *Id.* He also stated that he is in one-on-one therapy and "is prescribed medication." *Id.*

d. The Individual indicated in the QNSP that he received inpatient treatment in 2014 after "self-medicat[ing] his undiagnosed mental illness and attempting suicide." *Id.* The Individual was diagnosed with Bipolar Mood Disorder. *Id.*

e. The Individual acknowledged to the DOE Psychologist "that he does not always follow through with the recommended treatment." *Id.*

The LSO's invocation of Guideline I is justified.

## III. Regulatory Standards

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after

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

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

## IV. Findings of Fact and Hearing Testimony

The Individual indicated that he would consume alcohol as a teenager, but that following a head injury in 2012, "[h]e began having more serious mental health issues and started drinking alcohol heavily[.]" Ex. 5 at 2–3. He also suffered through depression while in college and attempted to take his own life, which resulted in a seven-to-ten-day hospitalization. Ex. 11 at 3; Ex. E at 4. Following his 2014 graduation, the Individual began attending AA and was abstinent from alcohol for approximately two years. Ex. 11 at 3; Tr. at 132–35; Ex. C at 11. He stopped attending AA meetings in either 2016 or 2017 and began consuming alcohol three to four times per week, consuming about two to three beers, but "never drank to excess." Ex. 11 at 3; Ex. E at 4; Tr. at 135. His alcohol consumption increased in 2022 following the stressors of a divorce, enduring a pandemic, and losing a loved one, and he began drinking to intoxication once per month, "but admitted that he drank to the point of being mildly impaired [three to four] times per week."[2] Ex. 11 at 3.

The Individual's mental health declined in 2022 to the point that his "symptoms had become unmanageable and that [he] was beginning to have feelings of suicidal ideation[.]" Ex. C at 2–3; Tr. at 64, 103–04, 107; Ex. 11 at 4; Ex. 7 at 1; Ex. E at 3. He sought inpatient hospitalization for his symptoms in November 2022. Ex. C at 3; Ex. 11 at 4. He was diagnosed with Bipolar II Disorder, as well as Anxiety, all "resulting from the PTSD diagnosis." Ex. 7 at 1, 5; Tr. at 113; Ex. 11 at 4. He also received an ADHD diagnosis. Ex. 7 at 1, 5. His medication was adjusted after his November 2022 inpatient hospitalization for "acute symptoms." Ex. 7 at 1, 5; Tr. at 113. From the time of his 2022 hospitalization, he saw a psychiatric provider "between every [two] weeks and

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[2] Provider treatment notes from July 2022 through December 2022 indicate that the Individual was "self-medicating" with alcohol, and consuming "[two to three] drinks most days." Ex. 9 at 1, 3; Ex. C at 5. The provider recommended that the Individual "avoid" alcohol and "encourage[d] sobriety." *Id.* at 6, 8, 11, 13. In his personal statement, the Individual admitted that his "medication provider recommended alcohol treatment in 2022 prior" to the creation of "a specific plan for modified alcohol consumption and treatment goals[]" with his current therapist. Ex. C at 5–6.

[one] month to discuss the efficacy of [his] medications" and beginning in late November 2022, he started seeing a new therapist on a weekly or biweekly basis.[3] Ex. 11 at 4; Ex. 7 at 1–3; Tr. at 49–50, 100–11, 113, 156–57. He indicated that he is compliant with his treatment recommendations.[4] Ex. 7 at 1; Ex. C at 4; Tr. at 113–14.

The Individual indicated in his April 2023 LOI that since his hospitalization, he primarily consumes "alcohol at home[,]" and that he usually drinks "a glass of wine" with dinner. Ex. 10 at 4; Tr. at 63, 65, 67–68. He also consumes beer or whiskey "[o]n weekends or in social settings about one to two times per month." Ex. 10 at 1–2. The Individual stated that in the year prior to the completion of the April 2023 LOI, "there were periods when [he] would drink [one to two twelve ounce] beers in the evening" before going to bed. Ex. 10 at 1–2; Tr. at 65, 67–68. He stated in the April 2023 LOI that he was last intoxicated in December 2022, and estimated that he "had been intoxicated [three to four] times in the past year." Ex. 10 at 2. Later in the LOI, the Individual stated that he consumes alcohol to the point of intoxication approximately one to two times per month. *Id.* at 5. The Individual admitted to one instance of driving while intoxicated in late 2022, reporting to work with a hangover, the fact that his spouse urged him to seek treatment for his mental health and alcohol consumption, and the fact that he sought couples therapy after his spouse learned that he was being dishonest about his alcohol consumption. *Id.* at 5–6.

The DOE Psychologist noted in his Report that the Individual stated that he "presently drinks socially with friends . . , drinks at home, and drinks when [he] is out socially." Ex. 11 at 3. He estimated that he consumes "one or two drinks [five to six] times per week." *Id.* at 4. The DOE Psychologist also learned that the Individual's past financial struggles were not the result of alcohol consumption, but rather, he would fail to "adequately manage his finances when he was drinking[.]" *Id.* The DOE Psychologist's Report notes that the Individual's underwent PEth and EtG tests in conjunction with the evaluation, the results of which registered a positive result of 239 ng/mL and 11,516 ng/mL, respectively.[5] *Id.* at 4.

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[3] A written statement by the therapist dated February 2023 indicates that she has been regularly seeing the Individual, for a total of forty-three sessions "to date." Ex. D at 16–17. The therapy the Individual receives primarily focuses on helping the Individual manage stress and anxiety, "as related to financial challenges, strengthening of relationships, and daily life stressors." Ex. 5 at 4. Her notes indicate that the Individual should "[r]educe use of alcohol as a coping technique[.]" Ex. 7 at 5. The therapist also stated that the Individual understands the issues caused by alcohol consumption, and he has worked to reduce his consumption, which included "accountability with his spouse, recognition of triggers for alcohol use, and identification of healthy coping skills . . . which was successful." Ex. D at 17; Tr. at 44, 71, 78–79, 109–12. The Individual's triggers include "unmanaged anxiety." Tr. at 84. Regarding his mental health, she indicated that the Individual is stable "through medication and therapeutic compliance." Ex. D at 17–18.

[4] In a February 2023 letter, a psychiatric nurse practitioner who also sees the Individual for medication management and has been doing so since July 2022, stated that since his discharge from the hospital in November 2022, "he has been stable and continued to be compliant with treatment." Ex. 7 at 4.

[5] The DOE Psychologist concluded that the PEth results indicate that the Individual has been consuming "on average more than [five] drinks of alcohol per day over the prior three weeks." Ex. 11 at 5. Further, he opined that the EtG results indicated that the Individual "had consumed a significant amount of alcohol within the [ninety-six] hours prior to his lab test." *Id.* There is no indication in the Report that the DOE Psychologist had the PEth and EtG test results interpreted by a medical doctor or some other qualified professional. The DOE Psychologist's curriculum vitae also does not indicate that he is a medical doctor or otherwise specially qualified to interpret PEth or EtG test results. Ex. 12. While I accept that these results indicate that the Individual consumed alcohol, I will give the DOE Psychologist's

The DOE Psychologist concluded that the Individual "has experienced repeated periods of alcohol abuse for which he expresses contrition and shame, and despite his efforts to change, his alcohol disorder persists." *Id.* at 7. He opined that the Individual suffers from AUD, Severe, and that he has not shown adequate evidence of rehabilitation or reformation. *Id.* at 8. The DOE Psychologist recommended twelve months of abstinence, that he submit to EtG and PEth tests every two months, that he "attend [and complete] an alcohol rehabilitation program[,]" and "comply with all post-discharge recommendations." *Id.* at 8–9. The DOE Psychologist specifically recommended that the Individual attend an inpatient program, "if possible," and one that "specializes in dual-diagnosis patients[.]" *Id.* at 9. In the alternative, he recommended, the Individual could attend AA or a similar program, three times a week for twelve months, and engage a sponsor. *Id.* The DOE Psychologist also diagnosed the Individual with Bipolar II Disorder, Adjustment Disorder with Anxiety, ADHD, Histrionic Personality Disorder with Dependent Personality Type, and Unspecified Personality Disorder with Masochistic Type and Melancholic Style. *Id.* at 7, 9. The DOE Psychologist stated that in order for him to "gain confidence that [the Individual's] mental health conditions are not of a nature that would impair his judgment, stability reliability, or trustworthiness, the Individual should "continue his psychiatric and psychotherapeutic treatment as recommended[,]" that he "comply with all recommendations regarding prescribed medications and psychotherapeutic treatment," that he refrain from using any "recreational drugs or alcohol," and that he not undergo any hospitalization "for any mental health issues including suicidality." *Id.* at 9. The DOE Psychologist noted that before the Individual resumes work, he should receive another evaluation by a "DOE approved provider[.]" *Id.* The DOE Psychologist noted in the Report that the Individual "does seem to be willing to continue with treatment, although he acknowledge[d] that he does not always follow" directions given to him by providers. *Id*. at 7.

The Individual voluntarily submitted to a second psychological evaluation with a provider of his own choosing in March 2024.[6] Ex. E. The provider produced a report of his observations and findings in April 2024. *Id.* at 1. The Individual gave this provider the same history he gave to the DOE Psychologist regarding his alcohol consumption and mental health issues. *Id.* at 2–5. He also told the provider that he was diagnosed with AUD when he was first hospitalized as a college student. *Id.* at 4. The provider specifically noted that the Individual engaged in moderate alcohol consumption from 2019 through 2020, and after his divorce in 2020, he began consuming alcohol in a manner consistent with severe AUD. Ex. E at 4; Tr. at 64, 107, 136–37. The provider stated that the Individual tried to be compliant with his medication at the time, but he may have "been unintentionally variable with his medication compliance due, in part, to his drinking behavior."[7]

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interpretations of the level of consumption testimony less than expert weight since he was not qualified to interpret the PEth or EtG test results. The Individual stated that these test results were taken out of context, as he had hosted a series of parties with his spouse prior to submitting to the tests, and accordingly, he was consuming more alcohol than usual. Ex. C at 6; Tr. at 45, 105–06. On the night of the last event in August 2023, the Individual consumed five to seven alcoholic drinks "over the course of a day and night." Tr. at 106.

[6] The provider's report and curriculum vitae indicate that the provider is a Licensed Psychologist. Ex. E at 17; Ex. F. The provider did not testify at the hearing and was not made available for questioning.

[7] The Individual testified that there must have been some miscommunication because he was compliant with his medication, and that he was "noncompliant" because he continued consuming alcohol against medical advice. Tr. at 127–32. The Individual noted in his testimony that he was hospitalized in 2022, in part, due to the fact that his "medication was becoming ineffective" as it was interacting with the alcohol. Tr. at 130, 147–48, 150, 157–58.

Ex. E at 4. The Individual explained that his Bipolar II Disorder and ADHD symptoms are well managed with medication but admitted that "his excessive drinking behavior has intermittently impaired his functioning in a variety of life areas." *Id.* at 5, 13.

The March 2024 provider consulted with the Individual's psychiatric provider, who indicated that the Individual is on four different daily medications to treat his ADHD and Bipolar II Disorder. *Id.* at 11. The Individual has also been prescribed one drug to use "as needed." *Id.* The Individual's psychiatric provider indicated that the Individual "is compliant with all medication and treatment recommendations," and he "confidently stated that he does not have any risk-related concerns regarding the [Individual]." *Id.* The Individual's therapist was also consulted, and she indicated that she has been seeing the Individual for fifteen months, and that she intends to "monitor and therapeutically address [the Individual's alcohol consumption] moving forward." *Id.* "She noted that she [does not have any] risk-related concerns regarding" the Individual. *Id.*

The March 2024 provider diagnosed the Individual with ADHD Combined Type, Bipolar II Disorder, and AUD, Severe, in partial remission,[8] and recommended continued weekly individual therapy, which will allow for continued symptom monitoring.[9] *Id.* at 14–15. The provider also suggested that the Individual would benefit from ongoing medication management, and that he may want to consider coaching to assist him with ADHD symptoms. *Id.* at 15–16. He indicated that if the Individual's "symptoms of [AUD] reemerge," the Individual should participate in a treatment program. *Id.* at 16.

The Individual began abstaining from alcohol in November 2023 and he has no intention of returning to alcohol consumption. Ex. C at 5–6; Tr. at 44, 104–05, 160–62. He began attending AA meetings in early February 2024, and had attended twenty-two meetings by the end of March 2024. Ex. E at 18; Tr. at 56, 78, 111, 137–40. The Individual has not engaged a sponsor and is not working his way through the twelve steps. Tr. at 140–41. He also voluntarily submitted to two PEth tests, the first in February 2024 and the second in March 2024. Ex. E at 19–22. Both tests were negative. *Id.*

The Individual's spouse acknowledged that the Individual had experienced "feelings of isolation" at the start of the pandemic, but that he usually does not report feeling stressed. Tr. at 19–23, 58. She described the combination of the COVID-19 pandemic and the death of the Individual's loved one as "a once in a lifetime occurrence." Tr. at 23, 47, 56, 108; Ex. C at 3. The Individual's spouse knew about his previous hospitalization, alcohol consumption, and treatment as her husband has been "honest about his . . . mental health[.]" Tr. at 58–60. She stated that since attending therapy, the Individual has exhibited behaviors that evidence "healthy coping skills" like deep breathing, going on walks, and drawing. Tr. at 23–24, 48, 56, 113, 117; Ex. C at 3. She confirmed that the Individual stopped drinking in November 2023, and that she has seen her husband make appropriate non-alcoholic drink choices. Tr. at 24–25. She described a strong support system, and the Individual's determination to remain sober. Tr. at 26–27, 108, 116; Ex. C at 3. The couple has

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[8] The provider noted that if the Individual "does not exhibit clinically significant symptoms of [AUD] for a full [twelve] months, his diagnosis should be amended to 'in full remission.'" Ex. E at 13.

[9] The provider suggested a diagnostic reevaluation if the Individual's "behavior escalates," and noted that he did not find enough evidence to diagnose the Individual with Histrionic Personality Disorder. Ex. E at 16.

cleared their home of alcohol. Tr. at 82. The Individual's spouse testified that the amount the Individual was consuming prior to his November 2022 hospitalization was not a concern, but rather, the fact that he was using alcohol to "unwind." *Id.* at 48. She testified that the Individual has "achieve[d] the best mental wellness [she has] ever seen from him[,]" that the Individual's medications are "well-managed," and that he is in compliance with his medication. *Id.* at 50, 52.

Regarding his failure to report his 2022 hospitalization, the Individual indicated that he was not attempting to deceive anyone, as he believed that reporting the matter to his second-line supervisor was sufficient and that he was compliant with reporting requirements. Ex. C at 4; Tr. at 35, 153. He admitted that he also called his second-line supervisor because he needed to ask for sick leave, which resulted in a detailed conversation regarding his hospitalization. Tr. at 120–22. The Individual testified that he "fully disclosed the hospitalization" in the LOI and he was "candid" while answering subsequent questions. *Id.* at 97–98, 101. His spouse testified that prior to his hospitalization, the Individual approached her regarding inpatient care, and she said that they "both knew [that] his job would have to be notified." *Id*. at 35. She described the fact that the Individual failed to report the situation to the LSO as "a misfortunate misunderstanding[,]" as the Individual is eager to take any recommended corrective actions and is "honest to a fault." *Id.* at 36–39, 41. She also indicated that patients relinquish possession of their personal phones upon entering inpatient hospitalization but confirmed that the admission had been planned. *Id*. at 85–87. Although the Individual called his supervisor from a centrally located phone at the hospital, he was primarily focused on getting help. *Id.* at 120–22, 153–54.

In his testimony, the DOE Psychologist noted that the Individual endured a relapse following a period of sobriety, and that the relapse was the result of "major changes . . . and traumatic events that occurred[.]" Tr. at 177. As these may be triggers for the Individual's alcohol consumption, the DOE Psychologist was primarily concerned with relapse prevention. *Id.* at 177–78. Additionally, because alcohol abuse can be a comorbidity to various mental health diagnoses, including Bipolar II Disorder, the DOE Psychologist noted that the Individual may be at a "little higher risk for relapse." *Id.* at 178–79. As a result, continuing with therapy, medication management, and treating his AUD is "very important." *Id.* at 179. Although the "harm reduction model,"[10] which entails reduced and controlled alcohol consumption to treat AUD "is entirely appropriate[]" for "many people," the efficacy of this model is reduced when considering other risk factors associated with the alcohol consumption. *Id.* at 180–81. Accordingly, the DOE Psychologist noted that considering alcohol consumption is "a big risk . . . at this point in [the Individual's] recovery." *Id.* at 181. At the time of the hearing, as the Individual had not fully complied with the DOE Psychologist's recommendations insofar as they concern the AUD diagnosis, the DOE Psychologist could not conclude that the Individual had demonstrated adequate evidence of rehabilitation or reformation from his AUD. *Id.* at 186. When asked whether the Individual's Bipolar II Disorder and ADHD were being controlled with treatment, the DOE Psychologist said, "yes" and that the Individual's current treatment "seems to be very effective for him." *Id.* at 183–84. He did note that the Individual's ADHD has not been "a real problem for him in the past." *Id.* at 179. He further testified that the "medications that are being used are entirely reasonable" and the DOE Psychologist testified that a treatment program is "good" only if the Individual "continues his active involvement with AA." *Id.* at 183–84.

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[10] The "harm reduction model" is the term the DOE Psychologist used interchangeably with "controlled" or "modified" alcohol consumption.

## V. Analysis

### A. Guideline E

The Adjudicative Guidelines provide that conditions that could 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.

Adjudicative Guidelines at ¶ 17.

The Individual was under a direct duty to disclose the hospitalization no later than three working days after its occurrence. *See* DOE O 472.2A, Attachment 5. While the Individual was honest about his mental health hospitalization after being asked about his mental health in general, I cannot conclude that he mitigated the stated concerns pursuant to mitigating factor (a), as the LSO first learned of matters pertaining to his mental health in the context of an LOI issued to him months after his hospitalization. I do not have any information before me indicating that the

Individual came forward and reported this information to the LSO prior to completing any LOI or being approached by the LSO regarding his mental health.

I also cannot conclude that the Individual mitigated the stated concerns pursuant to mitigating factor (c). Because all individuals with access authorization are under an ongoing obligation to report hospitalizations for mental health reasons to their Local Security Office, I cannot conclude that the Individual's failure to report took place under unique circumstances. I also cannot conclude that enough time has passed, as the most recent failure to report took place in late 2022. Further, as the Individual had a continuing obligation to report, I cannot conclude that the failure to report was minor. Accordingly, I cannot conclude that the Individual has mitigated the stated concerns pursuant to mitigating factor (c).

Although the Individual is receiving therapy, there is no indication in the record that the Individual is receiving therapy for behavior specifically related to the allegation that he failed to report his 2022 hospitalization. Additionally, there is nothing in the record to indicate that the Individual failed to report due to advice from counsel or a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Therefore, the mitigating factors at (d) and (b) are not applicable. The LSO did not allege any association with persons involved in criminal activity or any vulnerability due to the failure to report, and accordingly, the mitigating factors at (e) and (g) are not applicable. Further, as the Individual never alleged that the information regarding the failure to report was unsubstantiated or came from a questionable source, mitigating factor (f) is also not applicable.

**B. Guideline G**

The Adjudicative Guidelines provide that 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.

The record before me indicates that the Individual was diagnosed with AUD following his first inpatient hospitalization, and although he successfully remained abstinent for two years, he thereafter resumed alcohol consumption, which was inconsistent with medical advice that he received in 2022. Although the Individual has recognized his pattern of maladaptive alcohol consumption, it is clear from the record that his consumption increased prior to both periods of hospitalization. Despite being diagnosed with AUD after both hospitalizations, it concerns me that the individual still refuses to seek treatment that specifically targets AUD, like an outpatient treatment program. Even though the provider that the Individual saw in March 2024 determined that the Individual's AUD was in partial remission because he had experienced some months of abstinence at the time of the evaluation, the Individual has not enjoyed a period of abstinence long enough to merit a diagnosis of "full remission," and therefore, his efforts have not provided me with enough assurance that he has mitigated the stated Guideline G concerns.

As the Individual has only been abstinent for approximately four months following years of maladaptive alcohol consumption, a previous diagnosis of AUD, and a relapse, I cannot conclude that enough time has passed or that the maladaptive alcohol consumption was infrequent. I also cannot conclude that the consumption took place under unusual circumstances, as it spanned years and took place under various life circumstances, like a pandemic, a divorce, and a subsequent marriage. The Individual has not mitigated the stated concerns pursuant to mitigating factor (a).

While the Individual has recognized his prior maladaptive alcohol use and engaged in modified consumption prior to abstaining from alcohol in 2023, I cannot conclude that the Individual has mitigated the stated concerns pursuant to mitigating factor (b). First, the Individual acknowledged that before he devised a plan to reduce his consumption with the assistance of his therapist, his medical provider recommended that he abstain from alcohol, which he failed to do. Importantly, while the DOE Psychologist acknowledged that modified consumption could work for some people, the chances that modified consumption would be successful for this Individual is reduced by various risk factors. Additionally, the DOE Psychologist's recommendation was for abstinence for a period of twelve months, and as of the hearing, the Individual had only completed approximately four months. Although the Individual recently reengaged with AA, he has not done so for twelve months and has not engaged a sponsor. When considering his history with AUD and the years of problematic alcohol consumption, his recent positive actions to address the matter have fallen short of demonstrating a clear and established pattern of abstinence in accordance with treatment recommendations.

Although the Individual is receiving ongoing therapy, he is not participating in targeted alcohol abuse treatment, and accordingly, mitigating factor (d) is not applicable. In addition, as the Individual also has a history of treatment and relapse, mitigating factor (c) is not applicable.

### C. Guideline I

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline I include:

(a) The identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

(b) The individual has voluntarily entered a counseling or treatment program for a condition that is amendable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) Recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) The past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability;

(e) There is no indication of a current problem.

Adjudicative Guidelines at ¶ 29.

While there is evidence in the record indicating that the Individual is compliant with his medication and that he has been regularly seeing his therapist and psychiatric provider, the Individual has failed to mitigate the stated Guideline I concerns. As the record indicates, the Individual's AUD is a comorbidity of the Bipolar II Disorder, and the Individual has suffered more acute symptoms when his alcohol consumption has increased, necessitating inpatient hospitalization. Further, the DOE Psychologist recommended that the Individual also abstain from alcohol to avoid such acute symptoms that would throw his good judgment, trustworthiness, and reliability into doubt. Although the Individual has been abstinent from alcohol for several months, he is not in full remission, which requires abstinence for twelve consecutive months, and he has not demonstrated a clear and established pattern of abstinence in accordance with treatment recommendations. Accordingly, I am not persuaded that the likelihood of relapse is low, and as such, I am unable to conclude that the recurrence of acute symptoms requiring medical attention is unlikely. As the Individual has not been abstinent from alcohol for twelve months, thus reducing the chances of relapse and an increase in acute symptoms, I cannot conclude that he has mitigated the stated concerns pursuant to mitigating factor (a).

Although I have evidence before me that the Individual is amenable to treatment and is receiving treatment, I do not have information regarding his prognosis. Mitigating factor (b) is not applicable. As I do not have a medical opinion in the record to suggest that the condition is in remission with a low probability of recurrence or exacerbation, mitigating factor (c) is also not applicable. As there is a current problem and no indication that the condition was temporary, mitigating factors (d) and (e) are not applicable.

## VI. Conclusion

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

Noorassa A. Rahimzadeh
Administrative Judge
Office of Hearings and Appeals