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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:	March 7, 2024)	Case No.: PSH-24-0080
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Issued: July 15, 2024

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."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 a security clearance. Exhibit (Ex.) 1 at 7. On March 23, 2023, the Individual submitted a Questionnaire for National Security Positions (QNSP).² Ex. 9 at 215–68. Regarding his prior military service, he stated he was discharged with a "General Under Honorable for voluntarily breaking [his] contract early and having minor infractions in [his] personal file." *Id.* at 236. He reported that he was arrested and charged for Driving Under the Influence (DUI) in March 2014, and arrested and charged with Driving While Intoxicated (DWI) in June 2014. *Id.* at 253–54. Regarding his mental health, he reported that he was hospitalized in December 2016 after he "accidentally overdosed as a result of the side effects" of his prescription medication that he had been taking for PTSD.³ *Id.*

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.

² The Individual also completed a 2017 QNSP which was consistent in relevant parts with the information in his 2023 QNSP. Ex. 8.

³ An August 2023 Personnel Security Incident Report (IR) authored by the Individual's employer indicated that the Individual provided details about his history of alcohol use when he reported to Personnel Security to discuss an

at 251. In June 2023, the Individual was involuntarily hospitalized for attempting suicide with a firearm after suffering a mental breakdown and drinking alcohol to intoxication. Ex. 5 at 110–111. As a result of this incident, the local security office (LSO) asked the Individual to undergo a psychological evaluation with a DOE-contracted psychologist (DOE Psychologist). Ex. 6. After evaluating the Individual, the DOE Psychologist diagnosed the Individual with an alcohol Substance Abuse Disorder (SAD) in Recent Remission and Major Depression with a History of Suicidal Attempts. *Id.* at 120.

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 G (Alcohol Consumption) and Guideline I (Psychological Conditions) of the Adjudicative Guidelines. Ex. 1.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. At the hearing, the DOE Counsel submitted nine numbered exhibits (Ex. 1–9) into the record and presented the testimony of the DOE Psychologist. The Individual submitted thirty-one⁴ lettered exhibits (Ex. A–FF) into the record, presented the testimony of his wife, and testified on his own behalf. *See* Transcript of Hearing, OHA Case No. PSH-24-0080 (hereinafter cited as “Tr.”).

II. Notification Letter and Associated Security Concerns

A. 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 “alcohol-related incidents away from work, such as driving while under the influence, . . . regardless of the frequency of the individual’s alcohol use” and “diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder.” *Id.* at ¶ 22(a), (d). The SSC cited: (1) the DOE Psychologist’s determination that the Individual meets the criteria for an alcohol SAD in Recent Remission; (2) the June 2023 incident where the Individual was involuntarily hospitalized after consuming significant amounts of alcohol and attempting suicide with a firearm during a mental health crisis; (3) the Individual’s June 2014 driving while intoxicated (DWI) arrest; (4) the Individual’s March 2014 driving under the influence arrest (DUI); and (5) the Individual’s General

incident in which he attempted suicide in June 2023. Ex. 5 at 109–11. Regarding the December 2016 incident, the IR stated, “He had a mental breakdown, turned to alcohol, and consumed 2 pints of liquor before attempting to commit suicide.” *Id.* at 110. This appears to be inconsistent with the Individual’s statement in his 2023 QNSP about an “accidental[] overdose [].” Ex. 9 at 251.

⁴ The Individual originally submitted thirty-two exhibits but later withdrew Exhibit BB.

other than Honorable discharge from the military,⁵ which occurred due to alcohol abuse. Ex. 1 at 5. The LSO's assertions in the SSC justify its invocation of Guideline G.

B. Guideline I

Guideline I states that “[c]ertain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness.” Adjudicative Guidelines at ¶ 27. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are “behavior that casts doubt on an individual’s judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including . . . suicidal [behaviors]” and “[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness.” *Id.* at ¶ 28(a)–(b). The SSC cited: the Individual’s history of suicide attempts and the DOE Psychologist’s determination that the Individual met the criteria for a diagnosis of Major Depression with a History of Suicidal Attempts and had not implemented the treatment recommended by his suicide prevention specialist. Ex. 1 at 6. The LSO’s assertions in the SSC justify its invocation of Guideline I.

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.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

⁵ A Defense Counterintelligence and Security Background Investigations Report included verification from the Department of Defense for a Military Discharge Check (DMDC) Response which confirmed that the Individual was discharged “Under honorable conditions (general)” on December 20, 2013. Ex. 9 at 304. The DMDC Response stated, “Termination Reason-Separation from personnel category or organization.” *Id.*

IV. Findings of Fact

In his March 2023, QNSP, the Individual reported that in 2013, he participated in an alcohol treatment program while on active duty in the U.S. military. Ex. 9 at 258. He testified that he self-referred to the program in June 2013 when his military supervisor asked him if he was interested in alcohol treatment following an incident where the Individual had consumed alcohol and acted belligerently. Tr. at 55–56. He was eventually dismissed from this program for failure to comply with program requirements and was discharged from the U.S. Military.⁶ *Id.*

In March 2014, the Individual was arrested and charged with DUI. *Id.* As a result of this arrest, the Individual received unsupervised probation. Ex. 8 at 181.

In June 2014, the Individual was arrested and charged with DWI. Ex. 3 at 101. The Individual was sentenced to two years of supervised probation, required to attend two classes composed of a victim impact class and a substance awareness traffic offender program (“SATOP”), pay a fine, and complete community service. Ex. 8 at 183; Ex. 9 at 254. The Individual successfully fulfilled the terms of his sentence. *Id.*

In December 2016, the Individual was involuntarily hospitalized for four days after he impulsively took all of his medications for depression and PTSD and suffered an overdose. Ex. 9 at 454. The Individual’s medical records of his hospitalization state that the Individual reported that his medications for depression and PTSD were counteracting each other which resulted in side effects including agitation, depression, and suicidal ideation. *Id.* at 454. Hospital records state that on the date of the incident, he had consumed alcohol, and after a work altercation during which police were called, he took all his medications, resulting in the overdose. *Id.* at 454, 459. Following discharge from his hospitalization, he began attending group therapy for PTSD, and medical records from his psychiatrist reflect that he was diagnosed with Alcohol Use Disorder, Severe, PTSD, and Anxiety Disorder, Unspecified. *Id.* at 465.

In March 2019, the Individual was evaluated by the DOE Psychologist in relation to his initial request for a security clearance. Ex. 4 at 105. In his March 5, 2019, psychological report, the DOE Psychologist determined that the Individual met the criteria for Alcohol Use Disorder, in Sustained Remission. *Id.* In his March 23, 2023, QNSP, the Individual reported that he was granted his security clearance in March 2019. Ex. 9 at 260.

Following his June 2023 suicide attempt, the LSO requested that the Individual undergo another psychological evaluation, and on November 15, 2023, the Individual was evaluated by the DOE Psychologist. Ex. 6. Regarding his June 2023 suicide attempt, he stated that his grandmother passed away in June, and prior to her June 17, 2023, funeral he was at a family gathering where

⁶ According to a March 2018 Enhanced Subject Interview (ESI) in the Office of Personnel Management (OPM) Report of Investigation, the Individual “did not receive an Honorable discharge due to the fact that he had served less than 3 years. He was issued a General other than Honorable discharge.” Ex. 9 at 405. The OPM Report further states “this was not listed correctly on the security forms due to a typographical error.” *Id.* No further information was provided. However, as stated in n.5 *supra*, a DMDC Response confirmed the Individual was discharged “Under honorable conditions (general).”

he consumed alcohol “to the point that his wife called an ambulance and he was transported to the hospital” *Id.* at 118. He stated that after he returned home from the hospital, he and his wife argued. He stated that “he took a 9 [millimeter] mm handgun, held it under his chin and pulled the trigger in an effort to end his life.” *Id.* He stated that he was taken to the hospital and his surgeon told him that it was a “very rare statistical occurrence [that] he survived the incident with only minor damage.” *Id.* The Individual told the DOE Psychologist that “the handgun apparently shifted at the time of firing and exited through his cheek.” *Id.* Regarding his mental health, the Individual told the DOE Psychologist that “he is seeing his therapist weekly and seeing a psychiatrist every two to three weeks.” Ex. 6 at 118. The Individual also stated that he had started meeting with his suicide prevention therapist. *Id.* at 119. The Individual told the DOE Psychologist that he last consumed alcohol on June 16, 2023. *Id.* at 119. As part of the evaluation, the Individual provided a sample for a Phosphatidylethanol (PEth) test.⁷ *Id.* at 120. The Individual’s PEth test was negative for alcohol use. *Id.* The DOE Psychologist concluded in his report (Report) that the Individual met the criteria for a SAD, in Recent Remission, without evidence of rehabilitation or reformation. *Id.* at 120. He also found that the Individual met the criteria for Major Depression with a History of Suicidal Attempts. *Id.* The DOE Psychologist recommended that to demonstrate rehabilitation or reformation, the Individual should cease consuming alcohol; participate in a maintenance or relapse prevention group at least twice a month; attend a support group; continue meetings with his psychiatrist; participate in individual therapy every other week; be compliant with medication; and not possess, handle, or purchase firearms. *Id.* at 121. He also suggested that the Individual should implement the treatment recommended by his suicide prevention specialist.⁸ *Id.*

At the hearing, the Individual testified that he joined the U.S. Military in May 2011. *Id.* at 50. He said that his pattern of heavy drinking began shortly before he was deployed overseas in October 2012 and continued after he returned to the U.S. in March 2013. *Id.* at 51. He explained that in retrospect he feels that he used alcohol to deal with his mental health issues because he was concerned that bringing up mental health issues would cause problems in his military career. *Id.* at 52. Eventually, the Individual’s supervisor suggested that the Individual might benefit from an alcohol treatment program, and the Individual decided to enroll. *Id.* at 56. He testified that he enrolled in the program in June 2013, but “failed” out of it because he resumed alcohol use, which was not allowed while in the program. *Id.* He stated he was discharged from the U.S. Military after he failed out of the program. *Id.* at 58. The Individual further testified that when he returned to his hometown after being discharged, he continued drinking alcohol. *Id.* at 59. He stated that in July 2014, while he was awaiting sentencing for his DUI arrest, he met his current wife, which influenced him to “slow[] down” his alcohol consumption. *Id.* at 60–61.

The Individual testified that at the end of 2015, he began seeking treatment through the Department of Veterans Affairs (VA) for a combination of issues involving alcohol consumption, PTSD, depression, and anxiety. *Id.* at 61. He began seeing healthcare providers through the VA, but his

⁷ PEth, a compound produced in the presence of ethanol, is a biomarker for alcohol consumption that can be used to detect whether a subject engaged in moderate to heavy alcohol consumption during the period measured by the test. Ex. 6 at 125.

⁸ At the hearing, the DOE Psychologist explained that it appeared he was mistaken in his Report when he stated that the Individual had not completed the suicide prevention therapy recommended by his providers. Tr. at 149.

providers struggled to find a combination of medications that effectively treated his PTSD and anxiety. *Id.* at 61–62. The Individual testified that on the day he attempted suicide in December 2016 by overdosing on his medication, his wife had taken him to the VA that morning, and they explained to the doctor that the Individual’s medications were not working well for him. *Id.* at 62–63, 65. The doctor prescribed the Individual another medication, and the Individual went to work later that evening. *Id.* He admitted that he consumed alcohol while on a break at work. *Id.* at 65. While at work, the Individual experienced a mental health incident where he began acting in a violent manner, causing his coworkers to call law enforcement. *Id.* at 63–64. The Individual testified that he did not remember everything that happened during the incident, but stated that his coworker told him, “[Y]ou pull[ed] out a knife and you were getting ready to stab yourself.” *Id.* at 63–64. When the police arrived, they took him into custody, but allowed the Individual to go back when he said he forgotten something. *Id.* at 65. He went back to get his bag and consumed all of the pills he had inside of it. *Id.* He woke up at the hospital and was convinced by family and friends that he needed to be hospitalized to get help, so he remained there for approximately five days. *Id.* at 66. He testified that he was diagnosed with PTSD, alcohol use disorder, and “chronic depression.” *Id.* at 68.

After the Individual was released from the hospital in December 2016, he went to group therapy for alcohol issues at the VA for approximately four or five weeks. *Id.* at 66, 68. He was also seeing a therapist approximately once a month, and indicated the therapy addressed his general mental health as opposed to providing focused treatment for his PTSD or depression. *Id.* at 69. Around that time, the Individual also stopped drinking alcohol and decided to stop taking medication because he stated he did not want anything like what had happened in December 2016 to happen again. *Id.* at 67. He testified that he did not consume alcohol from December 2016, after the incident, until approximately 2020. *Id.* at 70. Starting in 2020, the Individual testified, he resumed alcohol consumption when he and his wife would visit with friends once or twice a month, and he would consume two or three beers, then switch to water or soda. *Id.* at 71.

The Individual testified regarding his alcohol consumption pattern from 2020 until 2023. *Id.* at 71–72. He testified that he did not drink to intoxication during this time period except for the night of his June 2023 suicide attempt. *Id.* at 71. By 2020, the Individual stated, he was no longer regularly attending any kind of therapy. *Id.* at 72. However, towards the end of 2022, he stated, he began going hunting with his father, an activity that he explained he has always found to be therapeutic for him. *Id.* This activity also decreased his alcohol consumption because he did not feel it was appropriate to drink before or during a hunting trip. *Id.* The Individual testified that “from August 2022 through June [] 2023, . . . [he] drank alcohol “maybe twice, and it was one or two beers.” *Id.* The Individual testified regarding the circumstances leading up to and surrounding his June 16, 2023, suicide attempt. *Id.* at 72–77. He stated that between 2016 and June 2023, he did not have any concerns about his mental health and stated, “I didn’t think my mental health was as bad as it was.” *Id.* at 73. He testified that his grandmother died in June 2023. *Id.* at 74. He explained that he was very close to her and spent more time with her as a child than he had with his parents. *Id.* at 74–75. He stated, “a piece of me had died with her that day. And I just didn’t realize how bad it was going to affect me” *Id.* at 75. While at a family gathering in her memory on June 16, 2023, the Individual recalled that he consumed some beer because he stated that at least since August 2022, consuming beer “never seemed to be a problem for [him]” *Id.* at 76. He testified that, at some point, he “started drinking liquor, . . . everything kind of became blurry and obviously,

I went to a very dark place in my mind. But . . . I just did not realize how bad my mental health was, leading up to this event” *Id.* at 76.

The Individual testified that after his June 2023 suicide attempt, he recognized that his mental health struggles stemmed from feeling as though he had failed the people around him, and by working with his hospital providers, they helped him to realize that those people would not be disappointed in him and that he was not a bad person. *Id.* at 77. He testified that after his June 2023 suicide attempt, the doctors at the hospital confirmed his previous diagnosis of PTSD and chronic depression. *Id.* at 80. Eventually he was transferred to VA providers, and he began seeing a VA psychiatrist on a weekly basis. *Id.* The Individual currently sees his treating psychiatrist once a month and plans to continue seeing him or, if necessary, another psychiatrist. *Id.* at 99. They discuss the Individual’s medication, his overall wellbeing, and any ways that the psychiatrist can help to improve the Individual’s treatment. *Id.* at 98. The Individual’s psychiatrist provided a letter dated April 10, 2024, verifying his psychiatric treatment with the Individual since January 2024, and stating that the Individual is stable on his current medication dosage. Ex. S. He stated that the Individual “has not had any recurrence of suicidal ideations or behaviors . . . has maintained efforts to stay engaged in therapy as well as in Psychiatric follow-up and has not missed any Psychiatric appointments.” *Id.* He further stated in the letter that the Individual has not consumed alcohol, which is supported by consistently negative alcohol testing and the Individual’s consistent reports of no cravings for alcohol; and the psychiatrist reported that the Individual “does not believe he can safely consume alcohol again.” *Id.*

The Individual testified that also he completed a six-month-long program with a suicide prevention psychologist. *Id.* at 99. The Individual and the suicide prevention psychologist spent each week working on ways to cope with suicidal thoughts and depression so that the Individual could overcome them. *Id.* at 99–100. Although he completed the program with the suicide prevention psychologist, he explained he always has the option to call the psychologist or restart the program. *Id.* at 100. He provided a letter from his suicide prevention psychologist who verified that he provided Cognitive Behavior Therapy for Suicide Prevention for the Individual from August 28, 2023, to February 5, 2024. Ex. T. The suicide prevention psychologist stated that the Individual “has eliminated his primary past risk factor for suicidality (alcohol use).” *Id.* He further stated, “[b]y the end of treatment, [the Individual] was considered low acute and low chronic risk for suicide based on his hard work and improvement evidenced.” *Id.*

The Individual also testified about his safety plan. *Id.* at 107–10. After the hearing, he submitted a copy of the safety plan, which is a formal document that he developed with his treating suicide prevention psychologist. Ex. FF. He testified that at work, his coworkers and supervisors have contact information for his providers and can call them to ask the providers to check in on the Individual if they feel that is necessary. *Id.* Although he does not work directly with them while his clearance is suspended, he stated that he can still contact them using Microsoft Teams during the workday, and he has confided in some of his new supervisors as well. *Id.* at 123, 126. His safety plan also addresses things the Individual wants to live for like his family, friends, and faith, and identifies his past triggers and how to avoid them. *Id.* at 109. This part of the plan reminds him what he should look out for internally, and he indicated that his support group is aware of potentially concerning behaviors. *Id.* Another part of his safety plan explains the steps that would need to be taken in order for the Individual to safely hunt in the future. *Id.* at 108. He said that he

would have to have a gun safe that only his wife would have the combination to open. *Id.* The Individual also stated that utilizing that part of the safety plan is “down the road” and “not anything that’s important right now.” *Id.*

When the DOE Psychologist asked the Individual whether “[he] see[s] a risk factor in returning to having firearms,” the Individual stated, “No, sir.” *Id.* at 113–14. Likewise, he provided the same answer when the DOE Psychologist asked if he “viewe[d] a risk factor for [him]self prior to the event where [he] tried to harm [himself] with a firearm.” *Id.* at 114. The DOE Psychologist then asked him, “When you say that the situation with your grandmother was an isolated event, would you term the prior overdose on pills as an isolated event as well?” *Id.* The Individual responded, “Yeah, I would. That was more of a personal thing, struggles I was going through within my life.” *Id.*

The Individual testified that he currently takes two prescription medications to support his mental health. *Id.* at 95. He finds the medications beneficial to him and said that he believes the medications help him think clearly when he is upset and along with the techniques he has learned from his providers, the medication helps him to calm down. *Id.* at 96. The Individual testified that he has no plans to stop taking these medications. *Id.* When he is upset, he now copes by playing video games, going outside, and taking deep breaths. *Id.* at 97.

The Individual testified that he recently began undergoing eye movement desensitization and reprocessing (EMDR) therapy in May 2024, because it was “something he wanted to do to try and help [him]self.” *Id.* at 92, 120; Ex. V at 7 (verification of EMDR appointment on May 16, 2024). He explained that since he has only had a couple of appointments, his understanding of the therapy is limited, but he thinks the point of it is to address upsetting events from his past and turn the “negative thought into positive.” *Id.* at 102. He testified that he attends EMDR therapy twice per month and plans to continue participating in this therapy. *Id.* at 120. The Individual testified that generally, he feels that by continuing to attend all his psychology and psychiatry appointments, his healthcare providers and support network have made it so that he will be strong enough to face new challenges in the future. *Id.* at 119.

Regarding his efforts to address his substance abuse issue since the June 2023 incident, the Individual testified that he was evaluated for substance abuse issues in September 2023, by a VA provider. *Id.* at 85. He stated that the provider told him that he did not meet the criteria to go through substance abuse treatment, but if he had issues abstaining from alcohol in the future, he could contact her. *Id.* After the Individual’s security clearance was suspended, he started a treatment program with a different provider, but was not happy with the treatment so he switched to a clinical psychologist, who at the time of the hearing was treating him for his SAD. *Id.* at 85–86. The Individual also testified that the clinical psychologist told him at their last appointment, which was one week prior to the hearing, that he was not sure how much more benefit their meetings would have as the Individual is now approaching one year of sobriety. *Id.* at 86.

He provided a letter dated April 23, 2024, from the clinical psychologist who has treated the Individual for alcohol use disorder since March 2024.⁹ Ex. R. The letter explained that he had seen the Individual on three occasions and had a fourth appointment scheduled. *Id.* The clinical psychologist stated that at the time of the letter, the Individual's anxiety and depressive symptoms appeared to be well-managed by medication compliance, such that the Individual's only current diagnosis is Alcohol Use Disorder (AUD), in Early Remission. *Id.* The Individual testified that he last consumed alcohol on June 16, 2023. *Id.* at 117–18. He testified that he has found the appointments with the clinical psychologist helpful to gaining new coping skills, but as the Individual approaches a year of sobriety, his meetings with the clinical psychologist have been more like check ins and that is similar to the meetings that the Individual has with his treating psychiatrist, so the clinical psychologist told the Individual that he is not sure the appointments are valuable. *Id.* at 88–89. The Individual also completed an Alcoholics Anonymous (AA) assessment in April or May 2024 to see if that would be an appropriate setting for him, and the assessment came back negative. *Id.* at 90–91; Ex. Z. Finally, the Individual testified that he was prescribed a medication for anxiety that his providers have explained also has a side effect of eliminating cravings for alcohol. Tr. at 91.

The Individual testified that he currently has a strong aversion to alcohol. *Id.* at 86–87, 89. He testified that he sometimes walks through the alcohol aisle in grocery stores in order to “test” himself. *Id.* at 87. The Individual explained that he feels that if he does this and feels a craving for alcohol, he knows he needs to contact his treating providers. *Id.* at 112–13. The Individual testified that his providers are aware of this behavior and stated that they were supportive. *Id.* at 112. He further testified that he has no desire to consume alcohol in the future. *Id.* at 92. The Individual testified that he decided on his own to take multiple PEth tests to reflect his commitment to abstinence. *Id.* at 93; *see also* Ex. A (negative PEth test from January 11, 2024); Ex. W (negative PEth tests from March 14, 2024; April 15, 2024; May 16, 2024). He testified to other actions he does to maintain his sobriety, such as drinking nonalcoholic beverages, playing recreational sports with his friends, and playing video games with them. *Id.* at 116–17. The Individual also testified that he spends time with his friends who support his sobriety, some of whom have also started abstaining from alcohol, and he noticed that when his other friends consume alcohol, they avoid doing so in front of him. *Id.* at 117.

The Individual also provided several character references from friends, family, and co-workers. Ex. I; Ex. J; Ex. K; Ex. L. Each letter indicated that the author had observed the Individual demonstrate trustworthiness and reliability in their interactions with him.

The Individual's wife testified that she met the Individual around July 2014. Tr. at 11. When they first met, the Individual was consuming “quite a bit” of alcohol “mostly just on the weekends.” *Id.* at 13. She testified that after that the Individual's December 2016 hospitalization, he stopped consuming alcohol entirely and went to a VA facility for both individual and group talk therapy. *Id.* at 15–16. She felt that the Individual “did really well” with the therapy and was “really happy”

⁹ The clinical psychologist's letter states that he has been treating the Individual since “March 11, 2023.” Ex. R. Based on the list of appointments that the Individual provided that indicated his first appointment with the clinical psychologist was on March 11, 2024, I believe the year in the psychologist's letter was a typographical error. Ex. V at 1.

at the time. *Id.* at 16. Around 2018, the Individual stopped attending regular talk therapy at the VA because of the difficulty in obtaining appointments and lack of telehealth options. *Id.* at 19–20. The wife testified that around the time the COVID-19 pandemic began, the Individual began to occasionally consume alcohol in a social setting. *Id.* at 17. She stated she does not recall ever seeing him intoxicated during this time period and estimated that he would consume alcohol with friends once or twice a month. *Id.* at 18.

The wife also testified about the Individual's suicide attempt in June 2023. *Id.* at 20. She explained that the Individual's family was in town for the Individual's grandmother's funeral, and they were all reminiscing, and most attendees, including the Individual, were drinking alcohol at a gathering the night before the service. *Id.* at 21. The wife testified that as she and the Individual were leaving, she noticed that he seemed to be particularly emotional. *Id.* Their oldest child noticed "something was off" while the Individual's wife was driving them home, which caused the Individual and his wife to argue in the car. *Id.* When they arrived at home, the wife wanted him to shower and go to bed because she realized he was emotional and intoxicated. *Id.* at 22. She had not realized that he had consumed a significant amount of alcohol because he had been doing "so well for so long" that she did not feel the need to monitor his consumption. *Id.* at 24. When the wife went into her room holding her younger child, it was dark and she saw that the Individual was holding something, but she could not tell what it was "until it was too late." *Id.* She stated "when [she] realized what happened and he had fallen to the floor, she ran outside to give the younger child to a neighbor, who had already called 911. *Id.* at 23–24.

The wife testified that while the Individual was in the hospital, he voluntarily consented to mental health treatment through hospital providers. *Id.* at 26. She said that prior to the suicide attempt, she was not aware that the Individual was struggling, but now that he has had consistent care and been put on appropriate and effective medication, she can see how much better he is doing. *Id.* at 28. She also stated that she feels his coping skills have improved significantly through the care that he has received. *Id.* at 28–29. The wife explained that now she can tell when he is stressed because he she sees him using his coping skills of playing video games, cooking "a lot of food," or asking for time alone to think and go do yard work. *Id.* at 30. She further stated that she knows that the Individual and his suicide prevention psychologist spent time discussing healthy ways to deal with big and stressful situations similar to the Individual's grandmother's passing. *Id.* at 34–35.

The wife also testified that she is aware of the Individual's safety plans he developed with his providers. *Id.* at 38. She also testified that she has developed a strong relationship with the Individual's suicide prevention care coordinator who ensures the Individual has all the support he needs. *Id.* at 39–40. The wife testified that the Individual has a very strong support system which includes his VA providers, neighbors and friends, many of whom regularly check on the Individual and the wife. *Id.* at 45–46.

The wife testified that they do not currently have any alcohol or firearms in their home. *Id.* at 32. She explained that they have spoken to the Individual's VA providers, who have said that it may be appropriate for the Individual to be allowed to use firearms for hunting at some point in the future, but the weapons would need to be stored in a locked safe that only the wife had the combination to. *Id.* at 33. She testified that allowing the Individual to use firearms to hunt was not a consideration for the near future. *Id.* at 34.

The DOE Psychologist testified after hearing the Individual's testimony and that of his wife. As to the Individual's alcohol use, the DOE Psychologist stated while he still "had some concerns that [the Individual] may underestimate risk, in terms of the alcohol issue," he felt that the Individual had made good progress and followed through with the treatment recommendations of his providers. *Id.* at 131. The DOE Psychologist said that the Individual's prognosis was "fairly good." *Id.* at 133. Despite an overall positive prognosis, the DOE Psychologist expressed a desire for the Individual to remain in regular contact with some sort of alcohol related recovery effort rather than the "call us if you need us" approach that he felt the Individual's treatment providers were satisfied with. *Id.* at 132. Ultimately, the DOE Psychologist testified that it was his opinion that there was sufficient evidence that the Individual was reformed or rehabilitated from his SAD. *Id.* at 135–36. He also said that because the Individual had achieved nearly a year of sobriety, the Individual's diagnosis would now be SAD, in Remission rather than Recent Remission. *Id.* at 136.

The DOE Psychologist stated that he also believed that the Individual was making "good progress" in his mental health treatment. *Id.* at 133. However, he expressed concern that because the Individual "presents very well[,]," the Individual may appear to providers to be doing better than he is actually doing at times. *Id.* The DOE Psychologist testified that "people with a diagnosis of major depression have a 50 percent likelihood of reexperiencing a depressive episode at some point in their life after that." *Id.* at 138. He was specifically concerned about the Individual's expressed desire to return to recreational hunting in the future, saying that he felt the risk was too great. *Id.* at 134. The DOE Psychologist gave the Individual a "fair" prognosis on a poor, guarded, fair, average, fairly good, good, excellent scale due to concerns about some of the Individual's future intentions and risks. *Id.* at 135, 155, 158–59. He went on to say that the Individual had done what his treatment providers had asked of him, followed through with treatment, and was taking medication as prescribed. *Id.* at 135, 155.

When directly asked about the Individual's progress regarding his psychological disorder of Major Depression, the DOE Psychologist said: "I have some hesitancy in that area. Still, I think he's made very good progress. I do have concerns about choices that he might make in the future based on some of the comments that he's made today, but he has followed through with treatment, as directed." *Id.* at 136. The DOE Psychologist said the Individual's diagnosis of Major Depression remained unchanged, but the Individual had mitigated the symptoms of depression through medication and therapeutic intervention. *Id.* The DOE Psychologist also stated that while the Individual has not participated in the EMDR therapy long enough for him to comment on its effectiveness, the DOE Psychologist thought that there was a high likelihood the Individual would benefit from the therapy, including with addressing depressive symptoms. *Id.* at 157–58.

V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witness presented at the hearing. In resolving the question of the Individual's eligibility for access authorization, I have been guided by the regulations at 10 C.F.R. § 710.7(a), the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. Because of the strong presumption against granting or restoring security clearances, I must deny access authorization if I am not convinced that the LSO's security concerns have been

mitigated such that restoring the Individual's clearance is not an unacceptable risk to national security. After due deliberation, I have determined that although the Individual has sufficiently mitigated the Guideline G security concerns, he has not mitigated the Guideline I security concerns. I cannot find that restoring the Individual's DOE security clearance will not endanger the common defense and security and is consistent with the national interest. 10 C.F.R. § 710.27(a). Therefore, I have determined that the Individual's security clearance should not be restored. The specific findings that I make in support of this Decision are discussed below.

A. Guideline G

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.

I find that the mitigating factor at ¶ 23(b) is applicable in this case. In his testimony, the Individual acknowledged that his alcohol consumption was harmful for his mental health. He provided several months of laboratory testing showing that he had not consumed alcohol, even though the DOE Psychologist had not recommended alcohol testing. He also presented testimony from his wife to support his own credible testimony that he had not consumed alcohol in nearly a year. Additionally, he testified regarding his alcohol treatment with his clinical psychologist and provided a letter of reference from his clinical psychologist, who is a substance abuse professional and stated that the Individual's issues with alcohol were in early remission, and his past difficulties with anxiety and depressive related symptoms were well-managed through medication compliance. Although in the past, the Individual was able to maintain sobriety from the end of 2016 until resuming consumption in 2020, since his last alcohol use in June 2023, he has put forth sufficient evidence that persuades me that he is unlikely to return to problematic alcohol use. For example, unlike in the past when he stopped participating in all treatment by 2020, this time he has demonstrated concerted efforts that reflect his commitment to continuing his treatment as demonstrated by the fact that he currently has additional providers that he is engaged with and who

are aware of his alcohol issues. This is evidenced by the letter from his treating psychiatrist, whom he continues seeing every month, and who verified his sobriety efforts and his desire to remain abstinent. In addition, the Individual has a strong support system, which he credibly testified to, including friends who choose not to consume alcohol in his presence. Moreover, the Individual has taken significant actions to maintain sobriety, including spending time with his close friends who are his support group, doing sober activities such as playing sports and video games, and drinking nonalcoholic beverages. Finally, the DOE Psychologist gave the Individual a “fairly good” prognosis, explaining that although the Individual had not completed every single one of this treatment recommendations, he felt that Individual’s SUD was well-controlled.

For the reasons stated above, I find that the Individual has mitigated the Guideline G security concerns under the second mitigating factor at ¶ 23(b).¹⁰

B. Guideline I

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 amenable 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.

¹⁰ Regarding the mitigating factor at ¶ 23(a), while the Individual has abstained from alcohol for nearly one year, he has a history of problematic alcohol use since 2013, including a prior period of stopping alcohol use for over three years before returning to excessive alcohol consumption. Thus, I cannot find that the mere passage of time alone is sufficient to mitigate the security concerns. Moreover, in light of the Individual’s prior alcohol use pattern, the record does not indicate that the circumstances giving rise to the security concern were so infrequent or unusual as to mitigate the security concerns. The mitigating factor at ¶ 23(c) does not apply because the Individual has a history of relapse following alcohol treatment. The mitigating factor at ¶ 23(d) does not apply because the Individual was still attending alcohol treatment, although near completion, at the time of the hearing.

Here, the Individual was diagnosed with Major Depression with a History of Suicidal Attempts by the DOE Psychologist. Regarding this diagnosis, the testimony and exhibits in this matter show that while the Individual's Major Depression is a serious condition, it is treatable and controllable with medication, the Individual has demonstrated ongoing and consistent compliance with his treatment plan, and he has received a favorable prognosis from his treatment providers. *Id.* at ¶ 29(a), (b). At the time of the hearing, the Individual had been compliant with the treatment program recommended by all of his providers for nearly a year, and he continues to have monthly contact with his treating psychiatrist as well as access to many other medical professionals on an as needed basis. The Individual also provided a letter from his treating psychiatrist who verified that he is compliant with treatment and is stable on his current medication regimen. I credit the Individual for complying with the treatment recommended by his providers and for the good progress he has made in his treatment regarding his Major Depression disorder. As such, I find that the Individual has mitigated the security concern regarding his diagnosis pursuant to factors ¶ 29(a) and (b).

However, with regard to his history of suicide attempts, I cannot find that the Individual has mitigated the security concerns. I base my conclusion in large part on the seriousness of the conduct of attempting suicide with a firearm in June 2023, which poses a significant security concern. 10 C.F.R. § 710.7(c). Moreover, under Guideline I, I also consider the fact that "behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness" includes "self-harm, [or] suicidal . . . behaviors[.]" Adjudicative Guidelines at ¶ 28(a).

The Individual testified that he does not see his future plans to use firearms for hunting as a risk factor, and he testified that he did not view his prior attempt at suicide with a firearm as a risk factor. However, the DOE Psychologist testified that he has concerns about the Individual's expressed desire to return to recreational hunting in the future, saying that he felt the risk was too great. He also noted that people with a diagnosis of Major Depression have a fifty percent likelihood of reexperiencing a depressive episode at some point in their life. Moreover, the evidence shows that the Individual has a history of two suicide attempts. The DOE Psychologist gave the Individual a "fair" prognosis due to concerns about some of the Individual's future intentions and risks. I give his opinion significant weight and find it is further supported by the fact that the Individual lacked awareness that his mental health had been declining prior the June 2023 incident, although he already had a previous episode related to mental health problems in 2016 which led to a prior suicide attempt.

Further, I find it significant that the Individual and his wife testified that the Individual's providers at the VA have said that it may be appropriate for the Individual to be allowed to use firearms for hunting at some point in the future, and, if he were to have access to firearms, the weapons would need to be stored in a locked safe that only the wife had the combination to. Their recommendation to place restrictions on the Individual's access to firearms indicates that the Individual's providers still have ongoing concerns about the Individual's risk for recurrence of suicidal behaviors. Although the Individual's providers wrote letters of support stating he is stable on his medication, and his suicide prevention psychologist's letter stated the Individual is at low chronic risk for suicide, they have not provided any testimony explaining why the Individual cannot have access to firearms. Due to the absence of testimony by his providers that do not address the ongoing concerns identified above, the DOE Psychologist's "fair" prognosis, the seriousness of the

Individual's latest suicide attempt coupled with ongoing concerns about the Individual's ability to recognize risk factors, I cannot conclude that at this time there is no indication of a current problem. *Id.* ¶ 29 (e).

For the foregoing reasons, I find that the Individual has not mitigated the Guideline I security concerns under the mitigating factor at ¶ 29(e).¹¹

VI. Conclusion

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 Guideline G security concerns. However, I find that the Individual has not put forth sufficient evidence to resolve the Guideline I security concerns set forth in the SSC. Accordingly, I have determined 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.

Brenda B. Balzon
Administrative Judge
Office of Hearings and Appeals

¹¹ Regarding the mitigating factor at ¶ 29(c), the DOE Psychologist has given the Individual a "fair" prognosis for his psychological conditions on a poor, guarded, fair, average, fairly good, good, excellent scale due to concerns about some of the Individual's future intentions and risks. I also find that the mitigating factor at ¶ 29(d) does not apply because the Individual's mental health condition is not temporary and although he no longer shows indications of emotional instability, his condition is still being treated and remains with an active diagnosis.