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

In the Matter of: Personnel Security Hearing)
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Filing Date: June 3, 2024) Case No.: PSH-24-0133
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Issued: August 15, 2024

Administrative Judge Decision

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) to hold an access authorization under the United States Department of Energy’s (DOE) regulations, as 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 and Findings of Fact

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. As part of the Continuous Evaluation process for security clearance holders, the DOE received information that the Individual was arrested, while serving in the military, in April 2022, after walking into a stranger’s residence while intoxicated.² Exhibit (Ex.) 5; Ex. 7. The local security office (LSO) requested that the Individual complete a June 2023 Letter of Interrogatory (LOI) and a July 2023 LOI. Ex. 8, 10. As part of his July 2023 LOI response, the Individual provided a Substance Abuse Rehabilitator Program (SARP) military record which revealed that the Individual had been diagnosed with Alcohol Use Disorder, Moderate, in July 2022, pursuant

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 As a result of the arrest, the Individual was charged with (1) Disorderly Conduct, Drunkenness and (2) Burglary, Unlawful Entry. Ex. 4 at 1. He also received Article 129 and Article 134 violations issued by the military. *Id.* The Individual was subsequently issued a letter of reprimand by the military. Ex. 5; Ex. L. The Individual’s Blood Alcohol Concentration (BAC) at the time of the arrest was 0.194% in the first sample and 0.204% in the second sample. Ex. 4 at 3.

to the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition* (DSM-5). Ex. 6. The SARP record also revealed that if the Individual was retained by the military, he was required to “participate in a . . . substance abuse aftercare program for a minimum of 12 months.” *Id.* The SARP record recommended that the Individual remain abstinent from alcohol for a minimum of six months while participating in “Continuing Care . . . meetings.” *Id.* Lastly, the SARP record recommended that the Individual “[p]ractice responsible use of alcohol in moderation if [the] choice is made to drink after 6 months of sobriety in accordance with a plan endorsed by chain-of-command.” *Id.*

In the July 2023 LOI response, the Individual stated that he did not start consuming alcohol until he was twenty years old. Ex. 10. He also stated that he had previously reported to work or school with a hangover, most recently approximately two weeks prior to his April 2022 arrest. *Id.* Regarding the SARP, the Individual stated that he engaged in the program from July 11 through July 22, 2022. *Id.* He reported having abstained from alcohol for two months prior to participating in the SARP and remaining abstinent for six months after completing the SARP. *Id.* The Individual reported that he attended five Alcoholics Anonymous (AA) meetings over the course of five days as part of his participation in the SARP and noted that he was not required to participate in an aftercare program. *Id.* After his period of abstinence, the Individual stated, he began consuming alcohol again, “not to exceed 3 drinks a night or 15 drinks in a week” per the SARP recommendation to consume in moderation. *Id.*

In October 2023, the Individual underwent a psychological assessment with a DOE consultant psychologist (DOE Psychologist), after which the DOE Psychologist prepared a report (Report). Ex. 14. During the clinical interview (CI), the Individual told the DOE Psychologist that he first consumed alcohol when his mother gave him a drink after he completed a half-marathon at age fifteen. Ex. 14 at 11.³ He stated that he consumed alcohol one to two times in high school but did not start using alcohol regularly until his sophomore year of college. *Id.* The Individual confirmed that he was arrested in April 2022⁴ after entering a stranger’s residence while he was “very intoxicated.” *Id.* at 11–12. The Individual told the DOE Psychologist that the military recommended, but did not require, that he complete twelve months of aftercare; however, he was separated from the military prior to completing the twelve-month period, and he did not independently seek out an aftercare program after his separation. *Id.*

The Individual reported that after completing the six months of required abstinence from alcohol, he felt that he could better manage his alcohol consumption. *Id.* At the time of the CI, he stated, his consumption consisted of three to four alcoholic beverages two times per week. *Id.* He reported that in the six months prior to the CI, he had been intoxicated four times, with the most recent event occurring in September 2023. *Id.* The Individual reported that his last consumption of alcohol occurred two days prior to the evaluation when he consumed approximately three “red solo cups” of beer. *Id.* As part of the evaluation, the Individual underwent a Phosphatidylethanol

³ Exhibit 14 contains two sets of discrepant page numbers. This decision refers to the page number in the bottom right corner of each page.

⁴ The Report indicates that the arrest occurred in April 2020; however, this appears to be a typographical error. Ex. 14 at 11.

(PEth) test,⁵ which was positive at a level of 315 ng/mL. *Id.* at 12–13. According to the Report, the PEth test result suggested that the Individual “had consumed significant amounts of alcohol over the preceding three weeks (e.g., 4 drinks/day during that time or several very big episodes of binge drinking).” *Id.* at 13.

In response to the DOE’s question of whether the Individual has “an alcohol use disorder and/or does he habitually or binge consume alcohol to the point of impaired judgment,” the DOE Psychologist answered “yes.” *Id.* at 16. The DOE Psychologist noted that the Individual’s PEth results were “over the threshold . . . used to identify individuals who are alcohol dependent and who are likely to experience withdrawal symptoms if alcohol were to be discontinued.” *Id.* He stated that the Individual’s PEth result “is indicative of an alcohol use disorder and heavy alcohol use which can impact his judgment and increases the probability of directly or indirectly making inappropriate disclosures.” *Id.* The DOE Psychologist opined that, based upon the PEth results, the Individual had either unintentionally underestimated his alcohol consumption or had intentionally minimized the amount and frequency of his alcohol consumption.⁶ *Id.* He additionally determined that the Individual had not shown adequate evidence of rehabilitation or reformation, and a favorable prognosis would be dependent upon the Individual providing a full and accurate disclosure of the amount and frequency of his alcohol consumption. *Id.* In order to demonstrate adequate evidence of rehabilitation or reformation, the DOE Psychologist recommended that the Individual complete an outpatient rehabilitation program⁷ along with any recommended discharge instructions. *Id.* He also recommended that the Individual abstain from alcohol for a period of twelve months and provide evidence of his abstinence in the form of bi-monthly PEth tests. *Id.*

Due to unresolved security concerns, the LSO informed the Individual in a Notification Letter that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1. 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 E (Personal Conduct) of the Adjudicative Guidelines. Ex. 2.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations to request an administrative review hearing. *Id.* The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted seventeen numbered exhibits (Ex. 1–17) into the record and presented the testimony of the DOE

⁵ At the hearing, the DOE Psychologist testified that a PEth test measures a two to four week “window of alcohol use.” Transcript of Hearing, OHA Case No. PSH-24-0133 (Tr.) at 92.

⁶ The DOE Psychologist formed his opinion after comparing the Individual’s PEth results to those reported in a journal article concerning the use of the PEth test in the national security context. Ex. 16; *see* William Ulwelling & Kim Smith, The PEth Blood Test in the Security Environment: What it is; Why it is Important; and Interpretative Guidelines, J. OF FORENSIC SCI., July 2018.

⁷ The DOE Psychologist recommended weekly individual and group counseling for no less than eight and up to twenty weeks. Ex. 14 at 16. He noted that the aftercare would typically consist of group-based services such as AA. *Id.*

Psychologist. The Individual also submitted seventeen exhibits (Ex. A–Q) into the record, and he presented the testimony of one witness as well as his own testimony.⁸

II. Regulatory Standard

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.

III. Notification Letter and Associated Security Concerns

As previously mentioned, the Notification Letter included the SSC, which sets forth the derogatory information that raised concerns about the Individual’s eligibility for access authorization. The SSC specifically cites Guideline G and Guideline E of the Adjudicative Guidelines. Ex. 2. Guideline G relates to security risks arising from excessive alcohol consumption. “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Guideline E addresses conduct involving questionable judgment, lack of candor, dishonesty, or an unwillingness to comply with rules and regulations. *Id.* at ¶ 15. Such conduct “can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” *Id.*

In raising Guidelines G and E, the LSO cited the following as support:

⁸ The Individual submitted the following exhibits: (A) Power of Attorney; (B) Resume; (C) three Character Letters; (D) Fitness Reports; (E) Incident Report, detailing the April 2022 arrest; (F) Statement of Intent, indicating the Individual’s “intent not to abuse or use alcohol in the future”; (G) SARP Record; (H) Certificate of Release or Discharge from Active Duty; (I) Military Electronic Training Jacket; (J) Joint Services Transcript; (K) University Official Transcript; (L) Report of Nonjudicial Punishment/Letter of Reprimand; (M) Awards, Recognitions, and Accomplishments; (N) Certificate of Completion: 4 Hour Drug and Alcohol Awareness Class; (O) Certificate of Completion: 4 Hour Behavior Modification Class; (P) Biography; and (Q) two Character Letters. Exs. A–Q.

- (1) The DOE Psychologist concluded that the Individual met the criteria for Alcohol Use Disorder without adequate evidence of rehabilitation or reformation and additionally concluded that the Individual habitually or binge consumes alcohol to the point of impaired judgment (Guideline G);
- (2) The Individual's PEth test was positive at 315 ng/mL, which the DOE Psychologist opined was inconsistent with the Individual's reported alcohol consumption (Guideline E, Guideline G);
- (3) The military SARP record shows that the Individual was previously diagnosed with Alcohol Use Disorder, Moderate, and advised to participate in a minimum of twelve months of aftercare, which the Individual acknowledged he did not complete (Guideline G);
- (4) In April 2022, the Individual was arrested and charged with Burglary, Unlawful Entry and Disorderly Conduct, Drunkenness, as well as military violations, when he entered a stranger's residence while intoxicated (BAC 0.194% and 0.204%) (Guideline E, Guideline G);⁹
- (5) The Individual admitted that he had previously reported to school or work hungover (Guideline G);
- (6) The Individual reported in the July 2023 LOI that he did not begin consuming alcohol until age twenty but later told the DOE Psychologist that he first consumed alcohol at the age of fifteen (Guideline E).

Ex. 2.

IV. Hearing Testimony

At the hearing, the Individual's coworker (Coworker) testified on his behalf. Tr. at 13. He testified that he has known the Individual for approximately one year and speaks with him almost daily. *Id.* at 13–14. The Coworker testified that he and the Individual socialize outside of work and would typically go to a local establishment once a week for drinks where the Individual would consume two or three beers. *Id.* at 18–19. He stated that he last saw the Individual intoxicated in February 2024 at a friend's house. *Id.* at 21–22. The Coworker did not recall how much alcohol the Individual had consumed. *Id.* at 22. He stated that he and the Individual last consumed alcohol together in March 2024 and noted that the Individual began abstaining from alcohol in

⁹ In raising the Individual's April 2022 conduct and resulting charges and military violations pursuant to Guideline E, it is unclear if the LSO is raising the conduct and charges themselves as security concerns or whether the LSO is raising a concern regarding the Individual's reporting of this information. There are insufficient facts in the record for me to conclude that there is a concern regarding the Individual's reporting of this information, and the conduct and resulting charges are not properly raised pursuant to Guideline E as they are appropriately raised under Guideline G. *See* Adjudicative Guidelines at ¶ 16(d) (noting that a condition that may give rise to a security concern under Guideline E is "credible adverse information that is not explicitly covered under any other guideline"). As such, I will only analyze the April 2022 incident under Guideline G.

approximately mid-April 2024 when he “lost his security clearance.” *Id.* at 19, 23. The Coworker opined that the Individual is reliable, dedicated, honest, and trustworthy. *Id.* at 15.

The Individual testified and confirmed that in April 2022 he was arrested after entering a stranger’s home while intoxicated and was required to attend the SARP. *Id.* at 29–39. The Individual noted that after completing the SARP, he did not undergo any additional substance abuse treatment and did not attend any AA meetings. *Id.* The Individual testified that the aftercare requirements of the SARP were to undergo a six-month period of abstinence from alcohol, and if he were retained in the military, he should undergo a full year of aftercare. *Id.* at 35. The Individual explained, however, that as a result of the arrest, he was issued a letter of reprimand from the military, which ultimately led to him being “released from service with a general, under honorable discharge.” *Id.* at 31, 35; Ex. H (Certificate of Release or Discharge from Active Duty, indicating that the Individual was discharged for misconduct under honorable conditions). As such, the Individual stated that he only completed the six months of abstinence followed by alcohol consumption in moderation as was recommended by the SARP. *Tr.* at 35. He testified that the SARP explained “moderation” to be “no more than three to four drinks a night [and] no more than 15 total drinks a week.” *Id.*

The Individual testified that he consumed alcohol in moderation “for a while” until approximately May 2023, when he moved out of state, and began consuming greater volumes of alcohol. *Id.* at 36–37. The Individual stated that he believed that he increased his alcohol consumption once he moved because he left the support network he had built, and he was stressed about his new job as well as about finding new friends. *Id.* at 37, 61. He explained that he gradually increased his consumption to the point where, twice per week, he was typically consuming seven or eight beers, after which, he felt intoxicated. *Id.* at 37–38, 62. The Individual elaborated, stating that he was discouraged because he was having trouble meeting people, so he “figured [he] needed to drink more to become more social and be able to meet new people.” *Id.* at 62. The Individual testified that, although he recognized that he was falling into old patterns that originally brought him to the SARP, he did not take steps to “fix” it. *Id.* at 75–76.

Turning to the CI with the DOE Psychologist, the Individual testified, clarifying the discrepancy raised by the LSO regarding the age he began drinking. *Id.* at 74. He stated that he first consumed an alcoholic beverage at the age of fifteen when his mother gave him a beer, but he did not begin to consistently consume alcohol until the age of twenty. *Id.* The Individual further testified that, during the CI, he misrepresented that he was typically consuming two to three drinks twice per week. *Id.* at 40. He stated that, at the time CI, he was consuming seven to eight drinks twice per week, and he underreported his alcohol consumption as he “was extremely scared about losing [his] clearance.” *Id.* at 40, 67. The Individual noted that he had a friend who had his security clearance suspended and the friend recommended that “it was in [the Individual’s] best interest [to] lower the amount that [he] was reporting.” *Id.* He stated that he did not make an attempt to correct his underreported consumption with the DOE Psychologist because he had already left the office, and he worried that if he “brought it up then that would have put . . . [him] more in jeopardy of losing the clearance.” *Id.* at 41. He testified that he now recognizes that his decision to lie was a mistake. *Id.* at 52.

The Individual stated that he learned his clearance had been suspended on a Wednesday in mid-April 2024, and he consumed alcohol over the following weekend due to the stress he was feeling.

Id. at 46, 72, 76. However, he stated, by Monday, “I had [a] sort of epiphany” and realized that alcohol was “ruining, . . . stopping me from being able to continue at my job. . . . And so, I decided to stop drinking altogether.” *Id.* at 46–47, 76. The Individual testified that he wanted to comply with the DOE Psychologist’s recommendations, but he did not have any “income” to complete a treatment program and much of his time was dedicated to “trying to work” to pay his bills.¹⁰ *Id.* at 47. Although he did not undergo formal treatment, he stated that he has worked to build a support network, shared with the people in his network his intentions to abstain from alcohol with, and “used them to help bolster . . . [his] chance of success.” *Id.* at 48. He stated that he has also started meditating and working out, which helps him manage stress that previously caused him to consume alcohol. *Id.* at 48, 50. The Individual also testified that he completed an online drug and alcohol awareness course, which addressed the impact of alcohol on behavior, as well as an online behavior modification course, which discussed how to create healthier habits to change behavior. *Id.* at 53; Ex. N (Certificate of Completion: 4 Hour Drug and Alcohol Awareness Class; Ex. O (Certificate of Completion: 4 Hour Behavior Modification Class). He stated that he has no cravings for alcohol, and he does not intend to consume alcohol in the future. Tr. at 50–51, 54; Ex. F (May 21, 2024 Signed Statement of Intent, indicating the Individual’s intent to refrain from alcohol).

The DOE Psychologist testified after hearing the previously presented testimony. The DOE Psychologist explained that he diagnosed the Individual with an unspecified alcohol use disorder¹¹ because he felt that he did not “have all of the information about how much he was consuming and the problems in life that it might be causing[,]” and he felt that the Individual “would benefit from treatment.” Tr. at 94–95. He affirmed that this diagnosis remained unchanged, but based upon the Individual’s reported abstinence, a designator of “in early remission” could be added to the diagnosis. *Id.* at 99. Upon considering the Individual’s revised reported alcohol consumption at the time of the CI, the DOE Psychologist affirmed that the Individual was engaging in binge consumption of alcohol and opined that this level of consumption was consistent with the Individual’s PEth result. *Id.* at 86, 94, 96. He also testified that this return to heavy alcohol consumption following a diagnosis of an alcohol use disorder is a relapse. *Id.* at 87.

The DOE Psychologist opined that the Individual did not receive adequate treatment in the military, and although he had been engaging in some helpful behaviors and techniques, such as meditation, abstinence from alcohol, and creating a strong support system, he had not yet established adequate evidence of rehabilitation or reformation as the Individual had not undergone “a full alcohol evaluation . . . and then treatment and then aftercare with testing to ensure that he’s not using [alcohol] . . . over a period of 12 months.” *Id.* at 97, 100–01. Based upon the Individual’s openness at the hearing, the DOE Psychologist opined that the Individual had a favorable prognosis. *Id.* at 97, 101.

V. Analysis

¹⁰ The Individual acknowledged that AA meetings were free, and although he sought out the advice of others who had attended AA meetings, he had not attended. Tr. at 68.

¹¹ The specific diagnosis was not clear in the Report. *See* Ex. 14 at 16. The DOE Psychologist’s testimony at the hearing was the first time the qualifier “unspecified” was used. Tr. at 94.

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses during the hearing. In resolving the question of the Individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. After due deliberation, I have determined that the Individual has not mitigated the security concerns cited by the LSO under Guideline E and Guideline G of the Adjudicative Guidelines. Therefore, I find that the Individual's access authorization should not be restored. The specific findings that I make in support of this decision are discussed below.

A. Guideline G

Conditions that may mitigate a Guideline G security concern 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 maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified alcohol 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.

Here, the Individual was arrested for an incident that occurred while he was intoxicated, and subsequently, the SARP and DOE Psychologist diagnosed the Individual with an alcohol use disorder. The DOE Psychologist recommended that the Individual participate in an alcohol rehabilitation program with the requisite aftercare. He also recommended that the Individual undergo bi-monthly PEth testing to show that he was remaining abstinent from alcohol for a period of one year. At the time of the hearing, the Individual had been abstinent from alcohol for approximately three months, and although he has undergone eight hours of education, he has not attended any formal treatment or aftercare. Of further note, the Individual suffered a relapse following the SARP. The Individual has acknowledged his maladaptive alcohol use, and I have no reason to doubt that the Individual has been abstinent from alcohol since mid-April 2024 or his intention to continue to remain abstinent. However, given the short period of time that the Individual has been abstinent from alcohol, his previous relapse, and his lack of formal treatment following the relapse, I cannot find that he has mitigated the security concern pursuant to mitigating factor (b), (c), or (d). *Id.* at ¶ 23(b)–(d).

Finally, although the Individual's alcohol related arrest occurred over two years prior to the hearing, the Individual has not yet adequately addressed the concerns related to his alcohol consumption. As such, and for the reasons stated above, I cannot find that the alcohol related arrest or the Individual's problematic alcohol consumption occurred so long ago, so infrequently, or under such unusual circumstances that they are unlikely to recur and do not cast doubt on the Individual's current reliability, trustworthiness, or judgment. *Id.* at ¶ 23(a).

For the foregoing reasons, I cannot find that the Individual has mitigated the Guideline G concerns.

B. Guideline E

Conditions that may mitigate a Guideline E security concern 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.

In the July 2023 LOI, the Individual disclosed that he did not begin consuming alcohol until he was twenty years old. He later told the DOE Psychologist that his mother first gave him an

alcoholic drink when he was fifteen in celebrating an accomplishment. The Individual explained that, when he reported that he was twenty when he first began consuming alcohol, he was referring to when he first began consuming alcohol on a consistent basis. This appears to be a relatively minor miscommunication. As such, I find that the Individual has mitigated the security concerns associated with this inconsistent reporting pursuant to factor (c). *Id.* at ¶ 17(c).

Turning to the Individual's misrepresentation of his alcohol consumption during the CI, the Individual admitted during the hearing that he underreported out of fear of losing his clearance. He further admitted that he did not make an effort to correct the error due to a concern about putting himself "more in jeopardy." As such, I cannot find that the Individual satisfied mitigating factor (a) with respect to this misrepresentation, because his admission occurred after he was confronted with the PEth test results, and therefore, was not made in good faith. *Id.* at ¶ 17(a). Although months have passed since the Individual misrepresented his alcohol consumption and he has begun to address cause of his misrepresentation through abstinence and stress reduction practices, I cannot find that this misrepresentation occurred so long ago or under such circumstances that it is unlikely to recur and does not cast doubt on the Individual's reliability, trustworthiness, or good judgment as the Individual has only been abstinent from alcohol for three months as of the date of the hearing. As such, I cannot find that the Individual has satisfied mitigating factors (c) or (d). *Id.* at ¶ 17(c)–(d).

The Individual testified that he misrepresented his alcohol consumption on advice from a friend. There is nothing in the record to indicate that this person was serving as the Individual's legal counsel or was a person with professional responsibilities for advising or instructing the Individual specifically concerning security processes. As such, I find that factor (b) does not apply. *Id.* at ¶ 17(b). Similarly, the remaining mitigating factors are inapplicable to the circumstances of this situation. *Id.* at ¶ 17(e), (f), and (g).

For the foregoing reasons, I cannot find that the Individual has mitigated the Guideline E concerns.

VI. Conclusion

After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I have found that the Individual has not brought forth sufficient evidence to resolve the security concerns associated with Guideline E and Guideline G. 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 in 10 C.F.R. § 710.28.

Katie Quintana
Administrative Judge
Office of Hearings and Appeals