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

In the Matter of: Personnel Security Hearing	)	
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Filing Date: July 22, 2024	)	Case No.: PSH-24-0154
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Issued: December 13, 2024

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**Administrative Judge Decision**

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Noorassa A. Rahimzadeh, Administrative Judge:

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

**I. Background**

The Individual is employed with a DOE contractor in a position that requires him to hold an access authorization. As part of the investigation process for requesting an access authorization, the Individual signed and submitted a Questionnaire for National Security Positions (QNSP) in early 2018. Exhibit (Ex.) 22; Ex. 20. In the QNSP, he disclosed that he had been found guilty of shoplifting in 2001, for which he spent a week in detention. Ex. 22 at 241, 255–56; Ex. 20 at 185–86. Following the submission of the QNSP, the Individual underwent an Enhanced Subject Interview (ESI) in May 2018, which was conducted by an investigator. Ex. 22 at 274. Regarding the charge, the Individual told the investigator that he took an item without paying, resulting in his arrest. *Id.* The Individual also stated that he committed the act "in an effort to get kicked out . . . [of] the [United States armed forces.]" *Id.* The branch of the armed forces to which the Individual belonged charged him with "Larceny of NAF Property" pursuant to Article 121 of the Uniform Code of Military Justice and gave him extra duty for seven days. Ex. 21 at 203–05.

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<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

A copy of the Individual's criminal record was obtained during the investigation in May 2018, and it revealed that the Individual had been cited for Speeding fourteen times between October 2000 and January 2018, No Proof of Insurance in October 2016 and October 2017, and Evidence of Registration in February and October 2017. Ex. 22 at 296–309. The Individual was also cited for Traffic Violation six times between May 2013 and July 2016, Failure to Notify Vehicle Division of Change of Address or Name in 2016, and a Failure to Appear in 2014. *Id.*

In July 2018, a different investigator confronted the Individual with his 1999 arrest for Minor in Possession of Alcohol. Ex. 22 at 278. The Individual confirmed his arrest “on the night of his prom,” and explained that he had “obtained three cans of beer from one of the parents” and consumed the beer with friends. *Id.* Following a court appearance, the Individual was required to report to a probation officer for approximately six months, and, upon the successful completion of probation, “the charges were dropped.” *Id.* The Individual described himself as being “young and stupid at the time of the incident[.]” *Id.* He stated that he learned “to be more responsible [when] he does drink [alcohol.]” *Id.* at 278–79.

In April 2019, the Individual was asked by his employer to submit to an alcohol breath test after he reported to work appearing inebriated, and the test result came back positive at .186 g/210L. Ex. 15 at 78; Ex. 14 at 74. In March 2020, the Individual was charged with Aggravating Driving While Under the Influence of Intoxicating Liquor or any Drug (ADWI), Speeding, Driver's License Not in Possession, and Open Container. Ex. 10 at 47–48. Additionally, a Personnel Security Information Report (PSIR) from March 2020 indicates that a criminal summons was issued against the Individual in 2020 following a 2019 charge of “Violation of the Manufactured Housing Act.” Ex. 12 at 67.

In November 2020, the Local Security Office (LSO) asked the Individual to undergo a psychological evaluation with a DOE-consultant psychologist (DOE Psychologist). Ex. 18. The DOE Psychologist issued a report (2020 Report) of her findings the same month, and in the 2020 Report, she concluded that the Individual met sufficient criteria for a diagnosis of Alcohol Use Disorder (AUD), Severe, in Early Remission as set forth in the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*. *Id.* at 115. The DOE Psychologist did not find any evidence of rehabilitation or reformation. *Id.* The Individual's access authorization was suspended, and accordingly, an administrative review hearing was subsequently held at the request of the Individual. Hearing Transcript, OHA Case No. PSH-24-0154 (Tr.) at 34. The Individual's access authorization was subsequently restored. *Id.*

In January 2024, the Individual was arrested and charged with ADWI, Failure to Maintain Traffic Lane, and Speeding. Ex. 9. Following the incident, the LSO requested that the Individual complete a Letter of Interrogatory (LOI), which the Individual signed and submitted in February 2024. Ex. 16. As questions still remained, the Individual was asked to see the DOE Psychologist for a second psychological evaluation. Ex. 17. The DOE Psychologist concluded in a 2024 report of her findings and conclusions (2024 Report) that the Individual met sufficient criteria for a diagnosis of AUD, Moderate, in Early Remission as set forth in the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition, Text Revision (DSM-5-TR)*. *Id.* at 94. She also concluded that the Individual “has had episodes of binge drinking . . . which impaired his judgment.” *Id.* The DOE

Psychologist opined that the Individual had not shown adequate evidence of rehabilitation or reformation. *Id.*

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) and J (Criminal 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 employer's Employee Assistance Program (EAP) Counselor. The Individual also submitted six exhibits, marked Exhibits A through F. The DOE Counsel submitted twenty-two exhibits marked as Exhibits 1 through 22 and presented the testimony of the DOE Psychologist.

## **II. Notification Letter**

### **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 at work, such as reporting for duty in an intoxicated or impaired condition[,]” “habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder[,]” and “diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder[.]” *Id.* at ¶ 22(b), (c), and (d). Under Guideline G, the LSO alleged that:

1. In April 2024, the DOE Psychologist concluded that the Individual meets the DSM-5-TR diagnostic criteria for AUD, Moderate, without adequate evidence or rehabilitation or reformation. Ex. 1 at 6.
2. The DOE Psychologist concluded that the Individual’s “episodes of binge drinking in the last [twelve] months have impaired his judgment.” *Id.*
3. In January 2024, the Individual was arrested and charged with ADWI. *Id.* at 7.
4. In November 2020, the DOE Psychologist concluded that the Individual met the diagnostic criteria for AUD, Severe. *Id.* at 6.

5. In March 2020, the Individual was arrested and charged with ADWI and Open Container. *Id.* at 7.
6. In April 2019, the Individual “tested positive for alcohol resulting in a [Blood Alcohol Content (BAC)] of 0.186 while at work[.]” *Id.* at 6.
7. A search of the Individual’s vehicle after he tested positive for alcohol at work in April 2019 resulted in the discovery of alcohol. *Id.*
8. In April 1999, the Individual was charged with Minor in Possession of Alcohol. *Id.* at 7.

The LSO’s invocation of Guideline G is justified.

### **B. Guideline J**

Guideline J states that “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness” and that, “[b]y its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” Adjudicative Guidelines at ¶ 30. Conditions that could raise a security concern under Guideline J include “a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but [when] in combination cast doubt on the individual’s judgment, reliability, or trustworthiness[.]” and “[e]vidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]” *Id.* at ¶ 31(a) and (b). Under Guideline J, the LSO cited the various aforementioned citations and charges spanning from 1999 to 2024. Ex. 1 at 7–9. The LSO’s invocation of Guideline J 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**

In April 2019, the Individual arrived to work intoxicated, and he was asked to report to his employer's Occupational Medicine (Occ Med) for alcohol testing. Ex. 14 at 74; Tr. at 36. The Individual submitted to an alcohol breath test, the result of which was positive. *Id.* The Individual's vehicle was also searched, and "the investigators discovered a 750 ml bottle of alcohol with about a quarter of the contents in the bottle, a [twenty ounce] bottle of Coca-Cola with alcohol mixed in it[.]" Ex. 14 at 74. The Individual subsequently "admitted to entering" the workplace "under the influence of alcohol[.]" but stated that he did not "intentionally transport alcohol" onto the premises. *Id.* The Individual was suspended without pay for seven workdays. *Id.* In his February 2024 LOI response, the Individual indicated that on the evening prior to the incident, he had consumed a 750 mL bottle of liquor "with friends all night." Ex. 16 at 82. As a result of this incident, the Individual was required to participate in a Fitness for Duty (FFD) evaluation and comply with the recommendations made by Occ Med. Tr. at 37–38. At that time, the Individual got in touch with his employer's EAP and sought out providers through U.S. Department of Veterans Affairs (VA) to address his substance abuse. *Id.* at 38.

As indicated above, a criminal summons was issued to the Individual in March 2020 for ADWI, Speed Regulation, License to be Carried and Exhibited on Demand (driver's license not in possession), and Open Container. Ex. 10. The law enforcement officer who stopped the Individual's vehicle smelled alcohol about the Individual, observed that the Individual's eyes were "bloodshot" and "watery[.]" and that the Individual exhibited "slurred speech[.]" *Id.* The Individual failed to produce a driver's license and had to prop himself up against the vehicle upon exiting the vehicle. *Id.* at 50. Alcohol mixed in a soda bottle was located in the backseat of the vehicle, and the Individual was placed under arrest. *Id.* Following his arrest, the Individual submitted to a breath test, which yielded a result of .16 g/210L. *Id.* The Individual pled guilty to the charges related to this incident. Tr. at 54.

Following the aforementioned 2020 ADWI charge, the Individual was again referred to his employer's Occ Med for an FFD evaluation in March 2020. *Id.* at 111. He was subsequently referred "for an alcohol evaluation and treatment recommendations[.]" which resulted in a recommendation by Occ Med that the Individual attend an intensive outpatient treatment program (IOP). *Id.* at 111–12. The Individual also saw an Occ Med physician for a total of ten sessions "for monitoring" and he was subject to "two random alcohol tests per week." *Id.* The FFD matter was ultimately closed without any work restrictions in June 2020. *Id.* at 112. The Individual entered an IOP in April 2020, and upon initial evaluation, was diagnosed with, among other things, Alcohol Dependence, Severe. *Id.* The Individual stopped consuming alcohol upon enrolling in the IOP. *Id.* at 110. As part of the IOP, the Individual was required to attend three hours of group meetings "four days per week, and one individual counseling session per week." Ex. 18 at 112; Tr. at 43. He successfully completed the IOP in June 2020. Ex. 18 at 112. The Individual initially attended aftercare three times per week, and eventually only attended once per week, ending aftercare sessions in July 2020. *Id.* The IOP recommended, among other things, that the Individual attend Alcoholics Anonymous (AA) meetings. *Id.* The Individual began attending online AA sessions,

but as he could not “find commonalities” with others in the group, he discontinued attending meetings. Tr. at 14, 47. The Individual also contacted his employer’s EAP and “attended some of the classes . . . conduct[ed] on alcohol education and awareness and making changes to one’s drinking habits.” Ex. 17 at 92. He began attending twice weekly individual counseling sessions with a provider recommended by the EAP Counselor<sup>2</sup> and continued to attend sessions with his “regular substance abuse [provider through] the VA.”<sup>3</sup> Tr. at 44–46.

As a result of the 2020 ADWI and related charges, the Individual was asked to undergo a psychological evaluation by the DOE Psychologist in November 2020. Ex. 18. Regarding his past alcohol consumption, the Individual reported to the DOE Psychologist that his alcohol consumption began when he was in high school, but he consumed the most alcohol between 2008 and 2016, reaching a “buzzed [state] at least [eight to ten] times a month” and intoxication about five times every month during that time. *Id.* at 110–11. He stated that his alcohol consumption increased after his discharge from the armed forces, and he believes, “in retrospect,” that his consumption “was related to his PTSD symptoms.” *Id.* at 110. His consumption decreased in 2017, after he began working for the DOE contractor. *Id.* at 111. After 2017, he would be “buzzed four times a month and maybe drunk twice a month.” *Id.* The Individual told the DOE Psychologist that immediately prior to his March 2020 ADWI arrest, he consumed “[seven to eight] beers and one-third of a fifth of [liquor].” *Id.* at 109.

As part of the November 2020 psychological evaluation, the Individual underwent Phosphatidylethanol (PEth) and Ethyl Glucuronide (EtG) tests.<sup>4</sup> *Id.* at 108. Both tests were negative. *Id.* at 113. The DOE Psychologist diagnosed the Individual with PTSD and AUD, Severe, in Early Remission.<sup>5</sup> *Id.* at 115. She concluded that he had not shown adequate evidence of rehabilitation or reformation from the AUD and recommended that the Individual “attend three AA meetings per week for six months,” secure an AA sponsor, and work through the Twelve Steps. *Id.* If the Individual decided against AA, he should return to attending aftercare three times per week for six months. *Id.* Lastly, the Individual should submit to a minimum of three PEth tests over the course of the following six months.<sup>6</sup> *Id.*

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<sup>2</sup> The Individual could not remember how long he attended twice weekly sessions with this provider but indicated that her therapy focused on such things as controlling cravings and abstinence. Tr. at 45–46.

<sup>3</sup> The Individual was diagnosed with Post-Traumatic Stress Disorder (PTSD) in 2003 and has sought treatment for the condition through the VA “on and off” since his diagnosis. Ex. 18 at 111. The COVID-19 pandemic made it more difficult for him to secure such appointments. *Id.*

<sup>4</sup> A negative PEth test indicates that “the subject has not been drinking on a regular, heavy basis within a few weeks of the test, and has not had binge drinking episodes or moderate drinking within about one week of the test.” Ex. 18 at 121. An EtG “is a metabolite of ethyl alcohol that is present in the urine for up to 80 hours after any alcohol beverage is consumed.” *Id.* Accordingly, a negative test “provides strong medical evidence that the subject was abstinent from alcohol during the three days prior to the sample collection.” *Id.*

<sup>5</sup> At the time, the DOE Psychologist concluded that the Individual’s PTSD symptoms were being appropriately managed with prescription medication. Tr. at 18 at 115.

<sup>6</sup> The Individual’s access authorization was suspended following this evaluation, whereupon the Individual requested a hearing before an OHA Administrative Judge, and based on the evidence presented at the hearing, his access authorization was restored. Tr. at 34. See OHA case Number 21-0101.

In January 2024, the Individual was arrested and charged with ADWI and related charges. Ex. 9 at 44; Ex. 16 at 80. The day before his arrest, the Individual had been consuming alcohol at a former girlfriend's home, approximately six to eight twelve-ounce beers over the span of seven hours and decided to spend the night.<sup>7</sup> Ex. 9 at 44; Ex. 16 at 80; Tr. at 52. As he was driving home the following day, he was pulled over by law enforcement when he failed to remain in his lane. Ex. 9 at 44; Ex. 16 at 80; Tr. at 53–54. He was subsequently asked to perform field sobriety tests, upon the completion of which he was arrested. Ex. 9 at 44. The Individual refused to submit to a Breathalyzer test, as he knew he “[had not] been drinking since” the prior day. Tr. at 53. Although the charges were ultimately dismissed, the Individual felt that this incident was a “wake-up call[.]” as it confirmed that he “could not be around alcohol.” *Id.* at 54–55.

Following the 2024 ADWI, the Individual underwent a second psychological evaluation with the DOE Psychologist in April 2024. Ex. 17. The Individual told the DOE Psychologist that he had abstained from alcohol from March 2020 until April 2023, when he consumed craft beers during a birthday celebration. Ex. 18. at 92; Tr. at 49. At that time, the Individual “felt good, thinking he had his drinking ‘under control.’” Ex. 18 at 92; Tr. at 50. One month after the birthday celebration, the Individual consumed another five beers, resulting in a “buzz.” Ex. 18 at 92. He consumed another “four beers at least” while with family before Thanksgiving 2023 and drank again prior to his ADWI arrest in January 2024. *Id.* He told the DOE Psychologist that he had not consumed alcohol since his arrest. *Id.* Following the arrest, the Individual “re-contacted” his employer’s EAP, and accordingly, the DOE Psychologist spoke to the EAP Counselor. *Id.* The EAP Counselor informed the DOE Psychologist that she saw the Individual once per week for individual counseling session and that the Individual needed “a higher level of care” and “more trauma-focused therapy[.]” *Id.* at 92, 94. She also told the DOE Psychologist that she believed the Individual “wants to be in treatment and does not want to drink.” *Id.* at 92. In April 2024, prior to the DOE Psychologist’s evaluation, the Individual attended an online, hour-long evaluation session with a VA psychologist (Individual’s Psychologist). *Id.* at 93. The DOE Psychologist contacted the Individual’s Psychologist in connection with his evaluation of the Individual. The Individual’s Psychologist told the DOE Psychologist that she had diagnosed the Individual with PTSD and AUD, Moderate, and that she was providing the Individual with treatment for his PTSD symptoms and “drinking issues.” *Id.*

The Individual submitted to a PEth test in conjunction with the April 2024 psychological evaluation, the result of which was negative. *Id.* The DOE Psychologist concluded that the Individual met sufficient criteria for a diagnosis of AUD, Moderate, in Early Remission, and that he “has had episodes of binge drinking in the last [twelve] months which impaired his judgment.” *Id.* at 94. The DOE Psychologist did not see adequate evidence of rehabilitation or reformation and recommended that the Individual enroll in an IOP specifically to treat co-occurring disorders,

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<sup>7</sup> The Individual indicated in his February 2024 LOI response and in his testimony that this was the last time consumed alcohol. Ex. 16 at 82; Tr. at 80. The Individual testified that he began drinking again in the context of dating the aforementioned girlfriend, as they would do things like go to breweries and picnics where alcohol was being consumed. *Id.* at 50–51. It is because he began consuming alcohol in her presence, and he knew the alcohol “wasn’t good” for him, that he “finally decided it just [was not] going to work out between” them the night before the January 2024 ADWI, and accordingly, ended that relationship. *Id.* at 52.

like PTSD, and that his “treatment should provide long-term remission monitoring.”<sup>8</sup> *Id.* Further, the IOP “should include weekly individual and group counseling sessions for a period of not less than six months[,]” in person. *Id.* In the alternative, the Individual should attend and participate in AA or a similar program, attending no fewer than three meetings every week for twelve months. *Id.* His attendance should be documented, and the Individual should secure a sponsor and “work[] the program.” *Id.* The Individual should “remain permanently abstinent” and submit to monthly PEth testing for six or twelve months, depending on the “intervention choice he makes[.]” *Id.*

As indicated above, the Individual began attending EAP classes once more following his January 2024 ADWI charge, completing the Maintaining Changes in Substance Use program (Maintaining Changes) in August 2024. Ex. B. Since his April 2024 psychological evaluation, the Individual has submitted to seven PEth tests, one every month from May to November 2024, all of which have been negative. Ex. A. Following the 2024 arrest, the Individual attended several different AA groups to find one that worked for him, and ultimately found two different AA groups close to his home. Tr. at 56, 59. Although the Individual began attending AA meetings around April 2024, he began keeping a record of his attendance in June 2024, averaging three meetings per week. Ex. C; Tr. at 58–59. The Individual’s Psychologist submitted a letter in November 2024, indicating that she has seen the Individual a total of fourteen times since early April 2024. Ex. D. The Individual’s Psychologist indicated that the Individual’s “mood and confidence have noticeably improved since he stopped drinking and devoted himself to [AA], as well as counseling offered through EAP.” *Id.* She described the Individual as a “model patient” and indicated that she would like “to work with [the Individual] for another [three] months[.]” *Id.* The sessions with the Individual’s Psychologist focus on the Individual’s PTSD, his prior relapse, and addressing the causes of his alcohol consumption. Tr. at 66. The Individual also began seeing a clinical therapist in July 2024. Ex. F. In a November 2024 letter, the clinical therapist indicated that the Individual “has made excellent progress in reducing his anxiety and remaining sober.” *Id.* The Individual sees the clinical therapist and the Individual’s Psychologist on alternating Tuesdays. Tr. 69.

At the hearing, the EAP Counselor testified that the Individual has reached out to her at different times throughout the years to participate in the various “alcohol groups” that she runs. Tr. at 12. She has also provided him with some individual counseling sessions, and he continues to attend the Maintaining Changes group, despite that he completed it in August 2024. *Id.* She first met him in 2020, and at that time, she was “offering [the Individual] daily support, sometimes more than one time in a day, in helping him . . . get[] connected with resources from AA to other types of counseling or treatment programs.” *Id.* at 13. She last saw the Individual for counseling in late October 2024. *Id.* The EAP Counselor noted that the Individual has “always been consistent in arriving to his appointments and making them meaningful[,]” but recognized that EAP is a “short-term model[,]” offering every employee only eight individual counseling sessions every year. *Id.* at 13–14. She also testified that although most participants attend an alcohol awareness class before attending the Maintaining Changes group, the Individual only attended the Maintaining Changes group in 2021 and 2024, as he had already sought treatment, and his needs were met through the Maintaining Changes group. *Id.* at 15, 24 Since April 2024, the Individual has attended twenty

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<sup>8</sup> The Individual sought to enroll in an IOP in early June 2024. Ex. F. A letter from an employee of the program indicates that the Individual presented to their offices for an “intake with a nurse practitioner and an assessment with [a] counselor.” *Id.* The nurse and counselor determined that the Individual “[did not] assess at Intensive Outpatient or Outpatient level of care.” *Id.*



Maintaining Changes meetings, and she described the Individual as an “ambassador” for the Maintaining Changes group. *Id.* at 16.

The EAP Counselor testified that the Individual called her in April 2024 and told her that he had relapsed in early 2024. *Id.* at 19. She helped him trace his relapse to specific life circumstances, which included the fact that he had started seeing the aforementioned girlfriend, allowing them to discuss “relapse prevention skills” and lessons the Individual had learned in the context of his relapse. *Id.* at 19–20. The EAP Counselor learned that prior to his relapse, the Individual had “started to drift” away from treatment and counseling. *Id.* at 20. However, she knows that the process of recovery is not linear, and that relapse is a chance for individuals to “really learn about their sobriety[.]” *Id.* at 21. She confirmed that the Individual has learned from his most recent relapse and knows that “he really needs to be committed to his recovery” on a daily basis. *Id.* at 21, 26. He knows that he cannot “control alcohol, that he really cannot drink.” *Id.* at 26. Further, he understands the role his trauma has played in his maladaptive alcohol consumption, and “has identified . . . what is helpful to him.”<sup>9</sup> *Id.* at 26, 28. The EAP Counselor noted that “AA has been instrumental for” the Individual. *Id.* at 26. Based on her observations, the Individual understands that “he has to work on [his recovery] on a daily basis,” and knows that he “cannot just drift anymore.” *Id.* The Individual has told her that he understands “how boredom can play a role in drinking, because [it is] very difficult for [him] to have idle time, especially with the [PTSD].” *Id.* at 28. She stated that the Individual has learned coping skills from his psychologist, and he knows that there was “an aspect of loneliness and stress” that came with his alcohol consumption. *Id.* Accordingly, the Individual finds the Maintaining Changes group helpful, as it allows him to “touch base” and he feels that he is “part of something.” *Id.* She believes that the Individual knows that alcohol consumption was tantamount to a form of self-medication, as it “gave him distance from the” PTSD, so they have discussed his PTSD at some length. *Id.* at 28–29.

The Individual testified that although he received a certificate of completion for the Maintaining Changes group, he continues to attend “for the camaraderie[.]” *Id.* at 57. The Individual also indicated that he secured an AA sponsor in June 2024 and sees his AA sponsor as a “hero[.]” *Id.* at 60–61, 85. He keeps contact with his sponsor outside of AA, and the sponsor has been “instrumental” in the Individual’s recovery. *Id.* at 63–64. Currently, he is working the Twelve Steps, and he feels that the most difficult step in his recovery was “admitting that [he] was powerless over alcohol[.]” *Id.* at 62–63. Although he denied any cravings for alcohol, he knows he can call his sponsor should he have one. *Id.* at 79. He intends to continue attending AA meetings in the future. *Id.* at 64–65. The Individual also testified that he intends to continue attending sessions with the Individual’s Psychologist, as it is “working for [him] now.” *Id.* at 68–69, 71–72. He knows that he must continue with some form ongoing treatment in order to remain sober. *Id.* at 72.

The Individual testified that since the 2024 ADWI, he has “completely changed [his] life 180 [degrees].” *Id.* at 70. Now, he “[does not] really have a lot of friends” like “he used to[.]” as he stopped associating with his “party buddies.” *Id.* Now, the Individual opts to socialize with fellow AA attendees. *Id.* at 71. Since his 2024 ADWI, he moved to a different town, opting to leave his former hometown in advancement of his personal goals. *Id.* at 70–71. Since then, he no longer engages in his former hobbies, like fishing and hunting, as he used to consume alcohol while

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<sup>9</sup> The Individual has also participated in the EAP Counselor’s new “educational class about trauma.” Tr. at 22, 25.

participating in these activities. *Id.* at 71. He has moved on to different hobbies, like kayaking and “working on” cars, as these hobbies are not ones that he associates with alcohol consumption. *Id.* at 88. He attends college classes and manages a business to keep himself occupied, as having any “downtime” was difficult for him and would cause him to consume alcohol. *Id.* at 88. The Individual’s support network includes not only his sponsor, but also his mother, whom he considers a primary source of support. *Id.* at 86. He also feels that he has a group of AA friends that he “could call at any moment” should the need arise. *Id.* at 87.

Regarding the prior speeding tickets and other criminal charges, the Individual testified that he knows that he could “potentially get written up and stuff” should he receive another ticket or charge. *Id.* at 81. Accordingly, he understands that he cannot engage in reckless behavior, like speeding. *Id.* Further, the Individual is “trying to eliminate some of the bad stuff out of [his] life” and “trying to become a better person[.]” *Id.* at 83.

The DOE Psychologist testified that the Individual seemed to be ashamed to attend a second psychological evaluation in April 2024, and that the Individual was “more ready to acknowledge the severity of his problem with alcohol[.]” *Id.* at 94–95. Not only did she observe that the Individual did not minimize the matter of his consumption, but he also acknowledged the fact that he needs “forever therapy.” *Id.* at 95. The DOE Psychologist recounted that the Individual told her that he felt accountable, in that he realized that he “was going to have to get on top of this, stay on top of it, and have plenty of resources to help him do that.” *Id.* at 95–96. She was also pleased to hear that the Individual told her that he needs to receive in-person care, as he had been receiving some online care in 2020. *Id.* at 98. The DOE Psychologist indicated that after the 2020 incident, the Individual “drifted,” failed to “remain vigilant enough” and “did not have the major and numerous life changes that he described” at the hearing. *Id.* at 96.

The DOE Psychologist stated in her testimony that in addition to seeking and obtaining treatment for his AUD and PTSD, which was part of her recommendation, the Individual has engaged “long-term remission monitoring,” which is “the accountability” that the Individual indicated he needed “to make sure that he remained abstinent.” *Id.* at 98. The “long-term remission monitoring” that was put in place includes the therapy provided by the Individual’s Psychologist and the clinical therapist. *Id.* at 98–99. When asked whether the Individual “met the intent of the recommendations” that were made in the 2024 Report, the DOE Psychologist concluded that the Individual has “met and exceeded” her treatment recommendations, as the Individual has “worked with professionals,” attended AA meetings, and submitted to seven PEth tests. *Id.* at 99–100. She testified that “the general impression from [the Individual] . . . is an acceptance of the importance that he not drink.” *Id.* at 100–01. Further, she opined that the Individual has “made significant changes [like] moving and changing friends[.]” *Id.* at 100. She also noted that AA sounds like a “very critical contributing factor” to the Individual’s sobriety, “as [well as] the meetings with [the EAP Counselor’s] group.” *Id.* at 100. She stated that there is “a tone of seriousness[,] acceptance” and “finality . . . when he talks about . . . not drinking and what he . . . plans to do to maintain that going forward.” *Id.* at 101. When asked whether she is concerned about the potential for relapse, the DOE Psychologist replied, “[n]o.” *Id.* She elaborated on her response, indicating that she believes that the Individual is “on an excellent track,” as he is “managing the PTSD, which is critical, and also maintaining sobriety.” *Id.* She concluded that the Individual has “a good to

excellent prognosis” and that he has shown adequate evidence of rehabilitation and reformation. *Id.* at 102.

## V. Analysis

### A. 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.

To be sure, the Individual has made considerable strides in addressing his alcohol use disorder. Since his January 2024 ADWI, the Individual has engaged a psychologist and a clinical therapist to address his AUD and PTSD, he rejoined the Maintaining Changes group, and he attends AA meetings three times per week, with the support of his AA sponsor and fellow participants. In addition, the Individual changed his hobbies to ones that he does not associate with alcohol use, he has moved from his hometown, he attends college classes, and he maintains his own business to distract him from the downtime that he had difficulty managing without the use of alcohol. The Individual has been abstinent for the past ten months and has produced monthly negative PEth tests since May 2024 that corroborate his abstinence. The DOE Psychologist opined at the hearing that the Individual has shown adequate evidence of rehabilitation and reformation from his AUD and has a good prognosis, highlighting the fact that the Individual now understands and accepts his need for ongoing, in-person treatment for his co-occurring disorders.

However, I am concerned by the fact that the Individual relapsed following treatment for his AUD in 2020 via an IOP and accompanying aftercare, inconsistent treatment for his PTSD, and three years of abstinence. It is clear from the record that the Individual received care, and “drifted away” from the care, resulting in his relapse. Although the DOE Psychologist gave the Individual a good

prognosis in 2024, she also gave him a good prognosis in 2020. Despite his good prognosis and years of abstinence, he still discontinued treatment and relapsed, ending up arrested and charged with a second ADWI. Therefore, although the Individual now appears committed to remaining in treatment in order to prevent another relapse, and I have no reason to doubt his sincerity, I do have reason to doubt that his commitment will persist over time. As the Individual previously sought treatment for his alcohol consumption and as the DOE Psychologist previously provided the Individual with a good prognosis, I am not entirely convinced that enough has changed in the Individual's circumstances and care to prevent recurrence of relapse. If there is any doubt, security determinations "shall be resolved in favor of the national security." 10 C.F.R. § 710.7(a). Further, the Individual demonstrated about three years of sobriety prior to his relapse, and in that context, the ten months of sobriety he has completed since the 2024 incident does not convince me that he has sufficiently demonstrated a pattern of abstinence. Accordingly, while I have information before me that the Individual has acknowledged his pattern of maladaptive alcohol consumption and has taken action to address the matter, I cannot conclude that he has mitigated the stated concerns pursuant to mitigating factor (b).

As the Individual's current period of abstinence has been just ten months, I cannot conclude that the enough time has passed, and as the Individual has been struggling with his maladaptive alcohol consumption for years, I cannot conclude that the behavior was infrequent or that it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on his current reliability, trustworthiness, or judgment. The Individual has failed to mitigate the stated concerns pursuant to mitigating factor (a). As the Individual has a history of treatment and relapse, mitigating factor (c) is not applicable. As the Individual has not demonstrated successful completion of a treatment program since his 2024 arrest, and as discussed above, he has not demonstrated a clear and established pattern abstinence in accordance with treatment recommendations, the Individual has not mitigated the stated concerns pursuant to mitigating factor (d).

## **B. Guideline J**

The Adjudicative Guidelines provide that conditions that can mitigate security concerns under Guideline J include:

- (a) So much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) The individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) No reliable evidence to support that the individual committed the offense; and
- (d) There is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32.

As an initial matter, the Guideline J concerns include an allegation from when the Individual was a minor. I have not considered the 1999 criminal charge and arrest for Minor in Possession. *See* 10 C.F.R. § 710.7(c) (requiring me to consider, among other factors, “the age and maturity of the individual at the time of the conduct”).

The most concerning and recent of the criminal charges filed against the Individual were inextricably intertwined with the Individual’s alcohol consumption. As indicated above, the Individual has not mitigated the security concerns associated with his maladaptive alcohol consumption. Therefore, I cannot conclude that the Individual has mitigated the alcohol-related Guideline J concerns. As the last ADWI arrest was in 2024, I cannot conclude that it happened so long ago. I also cannot conclude that it happened under unusual circumstances or is unlikely to recur, as the Individual has been battling his underlying maladaptive alcohol consumption for years and has been abstinent for less than twelve months since his last relapse. Therefore, the Individual has failed to mitigate the alcohol-related charges pursuant to mitigating factor (a). The Individual did not indicate that he was pressured or coerced into committing the alcohol-related criminal acts, and accordingly, mitigating factor (b) is not applicable. The Individual pled guilty to the 2020 charges, and although the Individual did testify that he did not submit to a breath test on the day of the 2024 ADWI incident, he did admit that he had been consuming alcohol the prior evening. The record is also bereft of any further evidence that might indicate that the Individual did not commit the alleged 2024 offense. Accordingly, I cannot conclude that the Individual has mitigated the stated concern pursuant to mitigating factor (c). I also cannot conclude that the Individual has mitigated the stated alcohol-related charges pursuant to mitigating factor (d). I do not have information indicating whether the Individual successfully complied with all terms of release or the like regarding his alcohol-related offenses. The record also does not contain evidence of a sufficient passage of time without recurrence of criminal activity, as the Individual was charged with alcohol-related offenses in 2020, went some years without such charges, but was charged again in 2024. While I do have testimony before me indicating that the Individual is attending college classes, I have no information regarding his employment record, except that he had previously been placed on leave for reporting to work under the influence of alcohol in 2019. I also do not have any information before me suggesting that the Individual is involved in his community. As such, the Individual has not resolved the Guideline J security concerns related to his two recent ADWI offenses.

Regarding the 2019 Violation of the Manufactured Housing Act charge and a related March 2020 criminal summons issued against him in the 2019 matter, I have no information regarding the matter outside of a single exhibit providing the actual charge and summons and an indication that the Individual entered a guilty plea. Ex. 12. I have no information regarding what the guilty plea entailed; for example, whether the Individual was required to pay a fine or comply with probation. Although about four years have passed, I am unable to conclude that this concern has been mitigated, which is primarily due to the fact that the Individual had an access authorization during the period in question and failed to provide any context or testimony regarding this specific charge. Accordingly, I have no assurances that this specific behavior will not happen again. Therefore, the Individual has failed to mitigate the stated concerns pursuant to mitigating factor (a) or (d). The

Individual did not allege that he was pressured or coerced into committing this act and did not indicate that there was no reliable evidence to support the allegation that he committed the offense. Mitigating factors (b) and (c) are not applicable.

The Individual's criminal record also contains a significant number of traffic-related charges that were not associated with alcohol misuse, the last one of which was in 2018. The Individual also has a 2001 larceny charge. The most recent of these criminal charges was about six years ago, and thus sufficient time has elapsed that I find such behavior unlikely to recur. I am also satisfied that the Individual understands why it is important to comply with traffic laws, as he credibly testified that he not only wants to avoid any negative employment-related outcomes, but he also wants to work on improving himself. As the Individual has taken meaningful steps in changing his life, I have no doubt that he will bring the same dedication to this particular facet of his life, making it unlikely that such incidents will recur. Accordingly, I am satisfied that the Individual has mitigated the Guideline J concerns associated with his traffic-related criminal conduct pursuant to mitigating factor (a). Nonetheless, as there remain concerns with his other criminal conduct, he had not succeeded in resolving all of the Guideline J concerns.

## **VI. Conclusion**

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G and J of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the Guideline G and the entirety of the Guideline J 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