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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: May 27, 2024	)	Case No.: PSH-24-0178
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Issued: January 24, 2025

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**Administrative Judge Decision**

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Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”<sup>1</sup> For the reasons set forth below, I conclude that the Individual’s security clearance should be granted.

**I. BACKGROUND**

The Individual is employed by a DOE Contractor in a position which requires that he hold a security clearance. During the investigation of his background, derogatory information was discovered regarding the Individual’s past drug use, and he was referred to a DOE Contractor Psychologist (the Psychologist) for evaluation. At the evaluation, the Individual disclosed that he had relapsed with a single use a few days prior. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order 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 the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), the Individual presented the testimony of three witnesses—his Employee Assistance Program (EAP) Counselor, his Alcoholics Anonymous (AA) sponsor, and a colleague with whom he carpools daily—and testified on his own behalf. The LSO presented the testimony of the Psychologist. *See* Transcript of Hearing, OHA Case No. PSH-24-0178 (hereinafter cited as “Tr.”). The LSO

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<sup>1</sup> Under the regulations, “[a]ccess authorization’ means 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). Such authorization will also be referred to in this Decision as a security clearance.

submitted eleven exhibits, marked as Exhibits 1 through 11 (hereinafter cited as “Ex.”). The Individual submitted nine exhibits, marked as Exhibits A through I.

## **II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

As indicated above, the Notification Letter informed the Individual that he was prohibited from receiving a security clearance pursuant to the Bond Amendment, 50 U.S.C. § 3343. Further, the Notification Letter informed him that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. That information pertains to Guidelines E, G, H, and I of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. 10 C.F.R. § 710.7.

Guideline E states that “[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” Adjudicative Guidelines at ¶ 15. Conditions that could raise a security concern include:

- (a) Deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;
- (b) Deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;
- (c) Credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information;
- (d) Credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics

indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

- (1) Untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
  - (2) Any disruptive, violent, or other inappropriate behavior;
  - (3) A pattern of dishonesty or rule violations; and
  - (4) Evidence of significant misuse of Government or other employer's time or resources;
- (e) Personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:
- (1) Engaging in activities which, if known, could affect the person's personal, professional, or community standing;
  - (2) While in another country, engaging in any activity that is illegal in that country;
  - (3) While in another country, engaging in any activity that, while legal there, is illegal in the United States;
- (f) Violation of a written or recorded commitment made by the individual to the employer as a condition of employment; and
- (g) Association with persons involved in criminal activity.

*Id.* at ¶ 16.

Guideline G states that “[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual's reliability and trustworthiness.” *Id.* at ¶ 21. Conditions that could raise a security concern include:

- (a) Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder;
- (b) Alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, drinking on the job, or jeopardizing the welfare and safety of others, regardless of whether the individual is diagnosed with alcohol use disorder;

- (c) Habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;
- (d) Diagnosis by a duly qualified medical or mental health professional (*e.g.*, physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;
- (e) The failure to follow treatment advice once diagnosed;
- (f) Alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder; and
- (g) Failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

*Id.* at ¶ 22.

Guideline H states that:

[T]he illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

*Id.* at ¶ 24.

Conditions that could raise a security concern and may be disqualifying include:

- (a) Any substance misuse;
- (b) Testing positive for an illegal drug;
- (c) Illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;
- (d) Diagnosis by a duly qualified medical or mental health professional (*e.g.*, physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder;
- (e) Failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional;
- (f) Any illegal drug use while granted access to classified information or holding a sensitive position; and

- (g) Expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

*Id.* at ¶ 25.

Guideline I states that “[c]ertain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline.” *Id.* at ¶ 27.

Conditions that could raise a security concern and may be disqualifying include:

- (a) 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, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) An opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
- (c) Voluntary or involuntary inpatient hospitalization;
- (d) Failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions; and
- (e) Pathological gambling, the associated behaviors of which may include unsuccessful attempts to stop gambling; gambling for increasingly higher stakes, usually in an attempt to cover losses; concealing gambling losses; borrowing or stealing money to fund gambling or pay gambling debts; and family conflict resulting from gambling.

*Id.* at ¶ 28.

The Bond Amendment prohibits heads of agencies from granting or renewing national security eligibility for an individual who is an unlawful user of a controlled substance or is an addict. 50 U.S.C. § 3343(b); *see also* DOE Order 472.2A, Personnel Security, Appendix C: Adjudicative Considerations Related to Statutory Requirements and Departmental Requirements (June 10, 2022). An addict is defined as an “individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare; or is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.” 50 U.S.C. § 3343(b) (incorporating by reference the definition found at 21 U.S.C. § 802(1)); DOE Order 472.2A, Personnel Security, Appendix C at C-1. Controlled substance is defined as any substance listed as a controlled substance by 21 U.S.C. § 802. 50 U.S.C. § 3343(a)(1); DOE Order 472.2A, Attachment 8 at 8-2.

The LSO alleges:

1. That from February 2002 to March 2022, the Individual used “Crystal Methamphetamine” (methamphetamine) daily and that he admitted to being psychologically dependent on the drug (Bond Amendment, Guideline H);
2. That on February 17, 2024, the Individual committed to abstaining from illegal drug use but used methamphetamine again on April 13, 2024, while in the process of applying for a security clearance (Bond Amendment, Guideline H);
3. That the Individual admitted in a response to a Letter of Interrogatory (LOI) on February 17, 2024, that he was aware of DOE’s policy on clearance holders’ associations with others who use illegal drugs and that he had social contact with an illegal drug user on April 13, 2024 (Guideline E);
4. That in his April 25, 2024, report, the Psychologist diagnosed the Individual with Stimulant Use Disorder, Moderate, Amphetamine-type Substance without adequate evidence of rehabilitation or reformation (Guideline H);<sup>2</sup>
5. That in his April 25, 2024, report, the Psychologist diagnosed the Individual with Unspecified Alcohol Use Disorder, without adequate evidence of rehabilitation or reformation (Guideline G);
6. That in May 2004, the Individual was arrested and charged with Aggravated Driving While Intoxicated (DWI), Misdemeanor DWI, Possession of Drug Paraphernalia, and Speeding (Guideline G, Guideline H);
7. That in July 2001, the Individual was arrested and charged with Aggravated DWI (Guideline G);
8. That in November 1997, the Individual was arrested and charged with DWI (Guideline G);
9. That in March 1989, the Individual was arrested and charged with Misdemeanor DWI, Careless Driving, and Failure to Stop After Accident (Guideline G); and
10. That in his April 25, 2024, report, the Psychologist diagnosed the Individual with Other Specified Trauma- and Stressor-Related Disorder and opined that the condition could impair the Individual’s judgment, stability, reliability, or trustworthiness (Guideline I).

Ex. 1 at 1–2. Accordingly, the LSO’s security concerns are 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

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<sup>2</sup> The Psychologist used the *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, Text Revision* (DSM-5-TR) to make the diagnoses in his report. Ex. 1 at 1–2.

consideration of all of 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 entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." Adjudicative Guidelines ¶ 2(a). The protection of the national security is the paramount consideration. 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.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

#### IV. FINDINGS OF FACT

The Individual began using drugs and drinking alcohol as a teenager. Ex. 8 at 4–5. Between 1989 and 2004, the Individual was arrested and charged with DWI four times. Ex. 11 at 105–06, 124, 129. Around 1995, the Individual began using methamphetamine with his then-girlfriend, the mother of his children. Tr. at 41. He continued using alcohol and illegal drugs until 2018, when he entered an Intensive Outpatient Program (IOP) for substance abuse. Ex. 8 at 5–6. He did not complete the program and eventually began consuming alcohol again, which led to his eventual relapse with methamphetamine on one occasion in 2022. *Id.* at 4–5. The Individual was hospitalized in 2022 for dehydration caused by methamphetamine use; he relapsed when a woman he had an on-and-off relationship with offered him the drug during a date. *Id.* at 6; Tr. at 66. He continued to consume alcohol but abstained from drugs until April 2024. Ex. 8 at 4–5; Tr. at 67.

In April 2024, the Individual had been at a restaurant consuming alcohol with his friends and called the woman with whom he had had an on-and-off relationship to invite her to join them. Tr. at 67. This was the woman with whom he had relapsed in 2022.<sup>3</sup> *Id.* at 66–67. After coming home, the woman came to his house unannounced for a sexual encounter, during which she offered him methamphetamine. *Id.* The Individual used the drug that night. *Id.* Two days later, the Individual attended the evaluation by the Psychologist, which had initially been scheduled because of security

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<sup>3</sup> The Individual testified that he and the woman met two or three times per month for about 10 years and had only used drugs together on two occasions: the 2022 relapse and the April 2024 relapse. Tr. at 62–63. There is no indication that the woman was a frequent drug user or that the Individual would have expected drugs to be present when he called her because on the numerous occasions he had seen her since 2022, they did not use methamphetamine. *Id.* at 63, 65.

concerns about the Individual's prior drug use, his alcohol use, and his psychological condition. Ex. 8 at 2. When informed that he would be tested that day for drug and alcohol use, the Individual told the Psychologist about his relapse and, after the evaluation, called his employer's EAP for assistance with abstaining from drugs and alcohol. Tr. at 69, 99. The Individual's drug test came back negative for all substances. Ex. 8 at 9–10. His alcohol test came back positive for alcohol use and corroborated the Individual's report to the Psychologist regarding his recent alcohol consumption.<sup>4</sup> *Id.* at 9.

The Psychologist issued a report on his evaluation of the Individual. Ex. 8. He wrote that the Individual met the diagnostic criteria for Unspecified Alcohol Use Disorder; Stimulant Use Disorder, Moderate, Amphetamine-type substance; and Other Specified Trauma- and Stressor-Related Disorder. *Id.* at 12–14. He wrote that the Trauma- and Stressor-Related Disorder, which stemmed largely from issues with his family of origin, was concerning because it was likely one of the underlying causes of the Individual's substance abuse. *Id.* at 11, 14. The Psychologist wrote that the Individual was not, at that time, rehabilitated from any of the conditions. *Id.* at 12–14. He wrote that the Individual could demonstrate rehabilitation or reformation in the following ways:

- Unspecified Alcohol Use Disorder and Stimulant Use Disorder: The Individual should participate in an IOP for nine hours per week for twelve to sixteen weeks. The program should have group and individual therapy components. After completion of the IOP, the Individual should continue weekly aftercare sessions for twelve months. Ex. 8 at 13.
- Stimulant Use Disorder: As an alternative to demonstrating rehabilitation via the plan described above, the Individual could show reformation by remaining abstinent from substance abuse for twelve months. He should submit to random drug tests and receive a negative result at least monthly during that time to demonstrate abstinence. Ex. 8 at 13.
- Other Specified Trauma- and Stressor-Related Disorder: Should the Individual seek appropriate treatment to address his symptoms and to address his family of origin issues, his prognosis would be positive. Ex. 8 at 14.

At the hearing, the EAP Counselor testified that she initially met the Individual on April 17, 2024, in a one-on-one session regarding a recent methamphetamine relapse. Tr. at 11–12. The Individual had called the EAP hotline on April 15, 2024, to report the relapse. *Id.* at 22. The Individual had his first appointment with an IOP on April 29, 2024, and was quickly enrolled in the program. *Id.* at 22–23. The EAP Counselor added that by June 10, 2024, the Individual was involved in AA. *Id.* at 23. She met with the Individual in group and individual sessions; his most recent session occurred a few weeks before the hearing for a total of 24 sessions. *Id.* at 12–13. The EAP Counselor testified that the Individual's reaching out to the EAP was significant and that he followed recommendations from her and the other medical and mental health professionals involved in his care. *Id.* at 14. She testified that the Individual places great value on his sobriety and has set strong boundaries around recovery, built a recovery-oriented community, and learned to deal with

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<sup>4</sup> In addition to a urine test for drugs and alcohol, the Individual took a Phosphatidylethanol (PEth) test, which measures a blood sample for levels of an alcohol byproduct. *Direct Ethanol Biomarker Testing: PETH*, Mayo Clinic Laboratories, <https://news.mayocliniclabs.com/2022/09/13/direct-ethanol-biomarker-testing-peth-test-in-focus/> (last visited June 28, 2023). The test can detect alcohol consumption in the three to four weeks preceding the test. *Id.*



boredom and loneliness without relapse. *Id.* She testified that the Individual's relapse occurred during a period of loneliness. *Id.* at 16–17. She further testified that he reached out for help quickly after relapsing. *Id.* at 17.

The EAP Counselor testified that the Individual has relapsed in the past, but this time he has identified triggers and other challenges that led to previous relapses. Tr. at 19. She testified that this time, the Individual was able to dig deeper and face the hurt and shame that he was unable to face during treatment for his previous relapse. *Id.* at 20–21. He had cut off most contact with his family—who were not supportive of his sobriety—and was working through the trauma that contributed to his addiction. *Id.* at 16–20. The EAP Counselor observed that the Individual wanted to change his life and was ready to be honest and to commit to abstinence. *Id.* at 33. She had seen the Individual make and follow through with plans to further his recovery through treatment, support groups, and finding an AA sponsor. *Id.* at 33–34. The EAP Counselor testified that the Individual told her that the last date on which he used an intoxicating substance was April 13, 2024. *Id.* at 34. She testified that the Individual had committed to lifelong abstinence. *Id.*

The Individual testified that he began using methamphetamine with the mother of his child around 1995 and continued using about twice a month until 2018. Tr. at 41–42. He later testified that after 2004 he used methamphetamine once or twice per week. *Id.* at 53–54. The security clearance investigator's report of his interview with the Individual stated that the Individual had used methamphetamine eighteen times between 2002 and 2022. Ex. 11 at 143. The Individual's treatment records from his 2018 IOP treatment provider showed that he reported daily use at that time. Ex. 8 at 6–7. The Individual testified that he had difficulty remembering his substance use habits over the years and that any discrepancies were not intentional. Tr. at 47–49, 54, 79. He also testified that prior to 2002, he had primarily used a different drug but switched to methamphetamine in 2002 for financial reasons; he believed this may have accounted for the investigator's report stating that his methamphetamine use started in 2002. *Id.* at 45–47. He testified that he did not know why the investigator's report stated that he had used methamphetamine eighteen times because he could not remember all of the times he had used. *Id.* at 104. He stated, "I mean, my past . . . I have a real bad history of being involved in different—you know, of different episodes, and . . . it has brought me to this—to today of being clean." *Id.* at 103–04.

Alcohol was the Individual's main trigger for methamphetamine use. Tr. at 55. After drinking to intoxication, he would crave a different kind of high and would use methamphetamine. *Id.* at 55. The Individual also testified that depression was another trigger, particularly when he was not able to see his children. *Id.*

In 2018, the Individual entered a treatment center on a seven-day psychiatric safety hold for suicidal ideation. Tr. at 55–56. He testified that in order to be accepted into the facility immediately, he had to say he was suicidal. *Id.* at 56. After the seven-day hold, he began attending an IOP. *Id.* He stopped attending because of an assignment that required him to delve into his family life. *Id.* at 56, 59. The Individual's family used alcohol heavily and he had distanced himself from them to maintain his sobriety. *Id.* at 56–57. He experienced significant distress when attempting to complete the IOP assignment and he decided to leave the IOP. *Id.* at 56. The Individual began speaking to his family again and eventually began consuming alcohol with them.

*Id.* at 57–58. Initially, he consumed small amounts of alcohol infrequently, but over time his use increased. *Id.* at 57–59. He testified that instead of addressing his problems, at that time he ran away from them. *Id.* at 59.

The Individual testified that after his relapse in 2022, the doctor at the hospital who treated him for dehydration recommended that he attend an IOP, but the Individual did not do so because he believed he could stay sober on his own. Tr. at 61. He testified that his recent drug use in April 2024 had scared him because of how easily he had relapsed when given the opportunity. *Id.* at 59. He had identified in his treatment how having one or two beers on a weekend could lead him to using drugs. *Id.* He also identified how completing the IOP, attending maintenance (also known as aftercare) sessions, and participating in AA were crucial to maintaining his sobriety. *Id.* at 59–60.

The Individual testified that prior to 2018, he had typically used methamphetamine during sexual encounters or to help him have the energy to complete side jobs outside of his regular employment. Tr. at 64. He testified that he had used methamphetamine twice since 2018, both times with the same woman. *Id.* at 62–63, 65. He testified that he maintained his abstinence from drugs between 2018 and 2022 by avoiding his triggers and staying busy with work. *Id.* at 66. He identified his family as a trigger and testified that he stayed away from them and did not talk to them for years. *Id.* He testified that his family drank heavily and that he did as well when he was with them. *Id.* He further testified that this intoxication had led him to use drugs in the past. *Id.* The Individual testified that his steady employment was evidence that he had not been using regularly in recent years. *Id.* at 101. He testified that had he been using methamphetamine, he would not have been able to pay his rent, let alone stay at his job for multiple years. *Id.* The Individual testified that while he'd had sexual encounters since April 2024, he had not used methamphetamine, and it had not even come to mind. *Id.* at 110. He added that he had not seen or spoken with the woman he relapsed with since his relapse and did not intend to in the future. *Id.* at 111. He stated, “[t]here’s no reason to step on something I’ve already slipped on.” *Id.*

The Individual testified that he began consuming alcohol when he was fifteen and received his first DWI when he was sixteen. Tr. at 71. He testified that his father always had a beer in his hand and that his siblings also drank often. *Id.* He testified that when he drank, he drank to get drunk and had no limits. *Id.* at 72. He would slow his drinking at times, but it always increased again. *Id.* His family consistently offered him alcohol when he was around them. *Id.* He had maintained sobriety one time for eight to twelve months but had resumed drinking in early 2024 when he let his family back into his life. *Id.* at 72–74. He justified his actions by telling himself that as long as he was not using drugs, beer was ok. *Id.* at 73.

The Individual submitted into evidence the results of four PEth tests covering from July through early November 2024, all of which were negative. Ex. A. He submitted into evidence the results of sixteen urinalysis tests—administered every one to two weeks from the beginning of May through the end of July 2024 and monthly from August through November 2024—all of which were negative for drugs and alcohol. Ex. G. In May 2024, the Individual began an IOP consisting of three three-hour group sessions and one individual session per week. Tr. at 83; Ex. F. He was also required to attend three AA meetings per week. Tr. at 83; *see also* Ex. B (Attendance logs from AA from May through November 2024 showing attendance three times per week through

the duration of the IOP and twice weekly after completion). He testified that the group sessions taught him how to cope with things in his life, how to identify and avoid triggers, how to express his emotions, and the importance of staying sober from drugs and alcohol. Tr. at 83. He completed the IOP on July 25, 2024. Ex. E. The Individual continues to attend monthly individual therapy sessions and weekly group aftercare sessions through the IOP. Tr. at 86–87.

After completing the IOP, the Individual attended AA twice weekly and had a sponsor. Tr. at 83, 87. He testified that he went to AA every day during the five days he had off for Thanksgiving. *Id.* at 88. He felt comfortable there and testified that being surrounded by similarly situated people was very helpful. *Id.* The Individual testified that he was working the 12 Steps with his sponsor and that he was just beginning Step 8. *Id.* at 88–89. He testified that he called his sponsor almost every day and saw him in person on Saturdays and Sundays. *Id.* at 90. He also spent time socially with friends from AA who had been in recovery for a long time. *Id.* He testified that he felt like he belonged when he was at AA. *Id.*

The Individual testified that he intended to remain abstinent from drugs and alcohol indefinitely. Tr. at 91, 93. He testified that he initially avoided places where alcohol was sold, even grocery stores, but was now able to set “strong boundaries.” *Id.* He felt good about his sobriety and knew that any future consumption would lead to trouble. *Id.* at 91–92. He testified that methamphetamine scared him and that he refused to be around it or people who used it. *Id.* at 93. He testified that he cannot forget his “dark past” and that remembering it helped him stay sober. *Id.* at 93–94.

The Individual stated that he was grateful that he started his sobriety journey. Tr. at 97–98. He testified that continuing AA, aftercare, and working with his sponsor was going to be a big part of his staying clean. *Id.* at 104–05. He further testified that he now realized maintenance was important, having relapsed after attending the first IOP. *Id.* at 105. He testified that his sobriety was “all I have to fall back on,” and that it was the only thing keeping a roof over his head. *Id.* The Individual testified that when he relapsed in April 2024, he was not thinking about his sobriety and wasn’t doing the work to heal the root causes of his substance abuse like he was now. *Id.* at 106. He testified that he was “white-knuckling” sobriety before and had no support. *Id.* In contrast, he testified, he was now surrounded by positive, sober people and was actively working the 12 Steps of AA. *Id.* at

The Individual testified that he was working on his trauma- and stressor-related disorder with his therapist. Tr. at 94–95. He was working on processing his history with his family and accepting that they would not change. *Id.* at 95. He was working on avoiding his triggers and stated that he was “not trying to start a relationship that I’ve never had in my past.” *Id.* at 95. He testified that trying to have a healthy relationship with his family had contributed to his substance abuse in the past and that through the IOP, AA, and therapy, he had learned how to talk about his feelings and let go of the pain. *Id.* He had also learned how to set boundaries with his family. *Id.* at 96. The Individual stated that it would take years to heal, but he was committed to doing that work and “making things right” for himself. *Id.* He testified that he had a strong support system and had multiple people he could call, day or night, if he needed to talk. *Id.* at 95–96.

The Individual’s colleague had known him for about two years and saw him daily for carpools and at work. Tr. at 116–17. She was aware of the Individual’s prior drug and alcohol use. *Id.* at 118–

19. She testified that the Individual shared with her about his recovery and what he was learning with his sponsor. *Id.* at 121–22. She testified that she trusted the Individual and found him honest and reliable. *Id.* at 122–23. She described him as a rule follower. *Id.* at 122. She testified that the Individual had told her he intended to remain sober indefinitely. *Id.*

The Individual’s sponsor testified that he had known the Individual for several months. *Tr.* at 125. The Individual asked him to be his sponsor the second time they met. *Id.* The sponsor and the Individual interacted daily and met twice a week to work through the steps. *Id.* at 126. He testified that the Individual had called him when he was struggling or unsure what to do. *Id.* He testified that they had worked on identifying the Individual’s triggers, which were past relationships, old patterns and behaviors, and former acquaintances. *Id.* at 126–27. The sponsor testified that the Individual was “totally honest” with him and was working hard to maintain his sobriety. *Id.* at 128, 131. He further testified that he was there for the Individual twenty-four hours a day. *Id.* at 127–28. Though they met through AA, they worked on both drug and alcohol issues. *Id.* at 129. He testified that he requests all new sponsees to call every day for 10 days and the Individual has “gone above and beyond” and never stopped calling. *Id.* at 131–32. He testified that the Individual is a “great asset” at the meetings and was ready to help others. *Id.* at 132–33. He further testified that the Individual was “wholeheartedly committed” to his sobriety. *Id.* at 132.

The Psychologist testified that the Individual’s actions for recovery were impressive and that he had gone above and beyond to maintain his sobriety. *Tr.* at 142. He stated, “I think if there is a blueprint for rehabilitation, [the Individual] has followed it.” *Id.* He testified that the Individual was rehabilitated with respect to both his alcohol and substance use. *Id.* at 142, 154. He cited as support for his conclusion that the Individual has cut his family out of his life, was strongly committed to his sobriety, and was “really digging in and trying to make a difference in [his] life.” *Id.* at 154–55. He testified that:

[I]t’s been rare for me in my experience of doing these evaluations for a person to walk out of an environment and make an appointment with the EAP and—and to then follow through, and so that—and to continue in AA at a higher level than is expected of him, to continue in IOP aftercare beyond—well, he’s not beyond the twelve months, but beyond what [the IOP] might ask of him, and to continue in the EAP [with his employer] beyond the twelve weeks that they offer.

*Id.* at 145. The Psychologist gave the Individual a positive prognosis and stated that if he were evaluating for the first time based on what the Individual is doing now, he would say the Individual was rehabilitated. *Id.* at 147, 156. He testified that the random nature of the Individual’s drug tests, as shown in the exhibits, spoke positively to his abstinence. *Id.* at 161. The Psychologist testified that he opened the evaluation by stating that the Individual would be drug tested and asking him whether there was anything he would like to report; there was not an opportunity for the Individual to disclose his drug use prior to being asked. *Id.* at 99. The Psychologist was not troubled by the Individual’s difficulty pinpointing how much he used at what time, stating that it was common for that answer to vary, particularly because alcohol and methamphetamine are mind-altering substances. *Id.* at 141. The Psychologist testified that the Individual had made good progress with his trauma- and stressor-related disorder. *Id.* at 143. He testified that it is important to discuss trauma out loud and he viewed it as a positive sign that the Individual shared so much with his

sponsor and his coworker. *Id.* at 145, 158. He testified that the Individual's trauma was less likely to push him to use drugs now because he experienced less distress. *Id.* at 158.

## V. ANALYSIS

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government places a high degree of trust and confidence in individuals to whom it grants access authorization. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

The issue before me is whether the Individual, at the time of the hearing, presents an unacceptable risk to national security and the common defense. I must consider all the evidence, both favorable and unfavorable, in a commonsense manner. "Any doubt concerning personnel being considered for access for national security eligibility will be resolved in favor of the national security." Adjudicative Guidelines ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. 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 granting the Individual's clearance is not an unacceptable risk to national security.

### A. Guideline G

Conditions that may mitigate Guideline G concerns 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; or
- (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. Mitigating conditions (b) and (d) apply.

The Individual acknowledges that alcohol is dangerous for him, that it leads him to drug use, and that he cannot safely consume any amount of alcohol, satisfying the acknowledgment part of

condition (b). He submitted evidence that he completed an IOP and was attending aftercare, individual counseling, and AA as recommended by the Psychologist. While the Individual had not completed a full twelve months of aftercare, the Psychologist testified that the Individual was rehabilitated and that if he were evaluating the Individual for the first time based on the hearing testimony, he would have found him to be rehabilitated. Furthermore, aftercare was not a requirement of the IOP and the only directive to attend aftercare in this case came from the Psychologist's initial recommendation. I therefore find that the Psychologist's testimony at the hearing that the Individual is rehabilitated is sufficient to adjust the amount of aftercare required to demonstrate rehabilitation. Accordingly, I find that the Individual has satisfied the "actions taken to overcome" portion of condition (b) and the completion of treatment and aftercare portion of condition (d).

Finally, both conditions (b) and (d) require demonstration of a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations. The Individual submitted the results of PEth tests showing that he did not consume alcohol in the five months prior to the hearing. He submitted the results of weekly urine test covering the two months prior to that which indicate that he likely did not consume alcohol during that time. The Individual committed to maintaining his sobriety indefinitely and testified at length about the ways alcohol had harmed him and his desire to live without alcohol. He testified about the work he was doing in AA and counseling to ensure that he remained sober, which was corroborated by his sponsor's testimony. The Individual has also removed from his life the people with whom he used to drink alcohol, his family in particular, and has gained insight into the social dynamics that led him to relapse in the past. Furthermore, the Psychologist testified that the Individual is rehabilitated and has a good prognosis, which indicates that he believes the Individual is unlikely to consume alcohol in the future. Based on his treatment efforts, personal insight, and strong support system and on the Psychologist's good prognosis, I find that the Individual is unlikely to repeat the concerning alcohol-related behaviors, including drinking to impairment and driving while under the influence of alcohol. For all these reasons, I find that the Individual has presented evidence sufficient to demonstrate an established pattern of abstinence in accordance with treatment recommendations.

Having satisfied mitigating conditions (b) and (d), I find that the Individual has mitigated the Guideline G security concerns.

## **B. Guideline H**

Conditions that may mitigate Guideline H security concerns include:

- (a) The behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) The individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
  - (1) Disassociation from drug-using associates and contacts;
  - (2) Changing or avoiding the environment where drugs were used; and

- (3) Providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) Satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Administrative Guidelines at ¶ 26. Mitigating conditions (b) and (d) apply.

As described above regarding Guideline G, the Individual acknowledged that his methamphetamine use was dangerous and that he could not safely use any drugs, satisfying the acknowledgment portion of condition (b). The Individual completed the IOP, attended aftercare sufficient for the Psychologist to opine that he was rehabilitated, attended individual therapy, and was active in AA, which addressed all of his substance abuse, including methamphetamine. This satisfies the “actions taken to overcome” portion of condition (b) and the completion of treatment and rehabilitation and aftercare portion of condition (d). The Psychologist gave the Individual a good prognosis, satisfying the prognosis portion of condition (d).

Finally, both conditions (b) and (d) require demonstration of a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations. The Individual testified that he no longer associates with drug users and that he has created a strong support system and social circle within the sober community, which was corroborated by his sponsor. The Individual submitted the results of urine tests taken over a period of months, which, while not providing seamless coverage, support his testimony that he has abstained from drugs since April 2024. The Individual testified about the reasons he had struggled to remain abstinent in the past and testified that completing the IOP and continuing to work on himself through AA were crucial to his continued abstinence. He has removed from his life the people who facilitated his drug use, and his social circle now consists of people who do not use drugs. He spends a significant amount of his social time with AA members, with whom he finds significant emotional and sobriety support. The Individual no longer shies away from his past and the emotional distress it caused, choosing to face it head on so that he can address the root causes of his substance abuse. Furthermore, the Psychologist testified that the Individual is rehabilitated and gave the Individual a good prognosis for remaining abstinent. He opined that the Individual was a model for recovery and that the Individual had done the work necessary to maintain his sobriety. For all these reasons, I find that the Individual has presented evidence sufficient to demonstrate an established pattern of abstinence in accordance with treatment recommendations.

Having satisfied mitigating conditions (b) and (d), I find that the Individual has mitigated the Guideline H security concerns.

### **C. Guideline E**

Conditions that could mitigate Guideline E concerns 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. Mitigating factor (d) applies.

The LSO's Guideline E concern was that the Individual had contact with a drug user with whom he used an illegal drug in April 2024, despite having acknowledged in his February 2024 LOI that he knew about DOE's drug policy and that he intended to stay away from anyone involved in illegal drug use. Untreated substance abuse often results in relapse, and it appears that the Individual relapsed rather than intentionally misled investigators.<sup>5</sup> As such, I analyze the Guideline E concerns in terms of the Individual's ability to adhere to DOE's rules surrounding drug use and contact with drug users. The Individual credibly testified that he intends to remain abstinent from drugs indefinitely and that he cut off contact with the drug user he used with in April 2024. His sponsor corroborated his testimony, stating that the Individual had expressed a desire to remain sober, was doing the work to address the root of his substance abuse, and had created a new social circle for himself in the AA community. The Individual also submitted documentary evidence of his treatment activities; his testimony showed insight into his recovery efforts as well as an understanding of what he needed to do to maintain his sobriety. The Psychologist testified that the Individual is rehabilitated and has a good prognosis. The Individual has obtained counseling and changed his entire lifestyle to alleviate the circumstances and factors that contributed to his

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<sup>5</sup> The Individual's relationship with the woman with whom he relapsed had not involved drugs for about two years.



concerning behavior, and I find that a relapse is unlikely to recur. Accordingly, I find that the Individual has mitigated the Guideline E security concerns.

#### **D. Guideline I**

Conditions that could mitigate Guideline I security concerns 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. Mitigating condition (b) applies.

The Individual's mental health issues were concerning to the Psychologist for their effect on his substance abuse; his trauma from his family of origin was one of the underlying causes of his methamphetamine and alcohol use and was the reason he felt unable to complete the first IOP. The Individual voluntarily attends counseling through the EAP and through an individual therapist. The Psychologist gave him a good prognosis. The Psychologist believed the Individual's openness with his sponsor and coworker was a positive sign. The EAP Counselor was also impressed with the Individual's progress. Both professionals felt that the Individual's work on his issues with his family of origin was a crucial focus of his mental health treatment. For these reasons, I find that the Individual has satisfied mitigating condition (b) and has, therefore, mitigated the security concerns under Guideline I.

#### **E. Bond Amendment**

The Bond Amendment provides that federal agencies "may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict." 50 U.S.C. § 3343(b); *see also* DOE Order 472.2A, Personnel Security, Appendix C. DOE defines "an unlawful user of a controlled substance" and an "addict" as follows:

- a. An unlawful user of a controlled substance is any person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance or who is a current user of the controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather

that the unlawful use occurred recently enough to indicate the individual is actively engaged in such conduct.

- b. An addict of a controlled substance is as defined in 21 U.S.C § 802(1), which is any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare; or is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his or her addiction.

DOE Order 472.2A, Appendix C at C-1 (citing the Bond Amendment).

The Individual is not an “unlawful user of a controlled substance” or an “addict,” as defined by DOE. The evidence indicates that the Individual is not a current user of a controlled substance. Further, there is no indication, nor does the LSO allege, that he has habitually used methamphetamine or any narcotic drug in recent years. The Individual has not engaged in habitual use for roughly six years and has been able to return to abstinence after his two relapses. Moreover, the Individual has now undergone sufficient treatment to be rehabilitated from his Stimulant Use Disorder and has a good prognosis for remaining abstinent. After considering all the relevant information, including the testimony and other evidence presented at the hearing, I find that the evidence before me establishes that the Individual is not an unlawful user of a controlled substance or an addict. Therefore, I find that the Bond Amendment does not act as a bar to granting the Individual a security clearance.

## **VI. CONCLUSION**

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual’s eligibility for access authorization under the Bond Amendment and Guidelines E, G, H, and I of the Adjudicative Guidelines. I further find that the Individual has succeeded in fully resolving those concerns. Therefore, I conclude that granting DOE access authorization to the Individual “will not endanger the common defense and security and is clearly consistent with the national interest.” 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should grant access authorization to the Individual.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Kristin L. Martin  
Administrative Judge  
Office of Hearings and Appeals