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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: October 3, 2024 ) Case No.: PSH-25-0003  
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Issued: January 28, 2025

**Administrative Judge Decision**

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (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 or Eligibility to Hold a Sensitive Position.”<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 should be granted access authorization.

**I. BACKGROUND**

On June 13, 2023, the Individual submitted a Questionnaire for National Security Positions in connection with seeking access authorization. Exhibit (Ex.) 8 at 61.<sup>2</sup> On May 20, 2024, the Individual met with a DOE-contracted psychologist (DOE Psychologist) for a psychological evaluation as part of the adjudication of his eligibility for access authorization. Ex. 6 at 26. Although the Individual was “originally referred [to the DOE Psychologist] as a mental health concern,” during the evaluation, he reported that he drank a “[twelve]-pack [of beer] on most weekends.” *Id.* at 29. At the request of the DOE Psychologist, the Individual provided a sample for Phosphatidylethanol (PEth) testing,<sup>3</sup> the result of which was positive at a level of 90 ng/mL. *Id.* at 36. On May 29, 2024, the DOE Psychologist issued the results of the psychological

<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.

<sup>2</sup> The exhibits submitted by DOE were Bates numbered in the upper right corner of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by DOE.

<sup>3</sup> PEth is a compound which “accumulates when ethanol binds to the red blood cell membrane.” Ex. 6 at 34. A PEth test can detect evidence of alcohol consumption “over the previous 28-30 days.” *Id.*

evaluation (Report) in which she opined that the Individual “has been consuming significant amounts of alcohol due to weekly episodes of binge drinking.”<sup>4</sup> *Id.* at 30. She further opined that “PEth results confirm that [the Individual] is drinking significant amounts of alcohol during those occasions, which can impair judgment.”<sup>5</sup> *Id.*

The Local Security Office (LSO) subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 6–7. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline G of the Adjudicative Guidelines. *Id.* at 5.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted eight exhibits (Ex. 1–8). The Individual submitted nine exhibits (Ex. A–I). The Individual testified on his own behalf and offered the testimony of a counselor from his intensive outpatient program (IOP Counselor), his father, his wife, a former supervisor, and a current supervisor. Hearing Transcript, OHA Case No. PSH-25-0003 (Tr.) at 12–96. The LSO offered the testimony of the DOE Psychologist. *Id.* at 97–105.

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

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as the basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 5. “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. The SSC cited the DOE Psychologist’s opinion that the Individual “consumes significant amounts of alcohol due to weekly episodes of binge drinking[,]” which could “impair [his] judgement.” Ex. 1 at 5. The SSC additionally cited the Individual’s PEth test result of 90 ng/mL and representation during the psychological evaluation that “his current alcohol consumption is no more than four beers on a Friday night and not more than twelve-pack (beer) over a weekend.”<sup>6</sup> *Id.*

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<sup>4</sup> The DOE Psychologist cited a Centers for Disease Control (CDC) definition of binge drinking as monthly consumption of five or more drinks in a single occasion. Ex. 6 at 31. The DOE Psychologist also noted that “the National Institute on Alcohol Abuse and Alcoholism (NIAAA) defines binge drinking as a pattern of drinking that brings blood alcohol concentration (BAC) levels to 0.08 g/dL[,] [which] typically occurs after . . . [five] drinks for men in about [two] hours.” *Id.*

<sup>5</sup> According to the medical doctor who interpreted the Individual’s PEth test results, “PEth greater than 20 ng/mL corresponds to significant alcohol consumption (averaging 2-4 drinks/day several days/week).” Ex. 6 at 28.

<sup>6</sup> Although the LSO cited the Individual’s PEth test result and representation regarding his weekly alcohol consumption as distinct security concerns, I find that these concerns are more properly characterized as facts supporting the DOE Psychologist’s opinion, rather than stand-alone allegations. Accordingly, I will only consider these facts in the context of analyzing the DOE Psychologist’s opinion below.

The LSO's allegation that the Individual binge consumes alcohol on a weekly basis justifies its invocation of Guideline G. Adjudicative Guidelines at ¶ 22(c).

### 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 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 regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Dep't 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).

An 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). An individual is afforded a full opportunity to present evidence supporting his or her 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

As stated above, the Individual met with the DOE Psychologist in May 2024. Ex. 6 at 26. During the evaluation, the Individual stated that after a June 2020 hospitalization for mental health reasons, he attended weekly telehealth sessions with a counselor (Individual's Counselor) until June 2021.<sup>7</sup> *Id.* at 27. The Individual further reported that he "drank heavily" following this hospitalization and "described his current alcohol consumption as none during the week, but a [twelve]-pack [of beer] on most weekends." *Id.* at 29. The Individual indicated that he "felt a buzz" when he drank on the weekend and that he "d[id not] stop at one beer." *Id.* Based on the Individual's statements regarding his alcohol consumption, the DOE Psychologist requested that he be administered a PEth test, the result of which was positive at a level of 90 ng/mL. *Id.* at 28.

In the Report, the DOE Psychologist concurred with a medical doctor's opinion that the Individual's PEth test result of 90 ng/mL "indicates [the Individual] consumed on average about, or more, than [four] drinks/day." *Id.* at 29. Based on the Individual's PEth test result and reported alcohol consumption, the DOE Psychologist concluded that Individual consumed significant amounts of alcohol due to weekly episodes of binge drinking. *Id.* at 30. To demonstrate rehabilitation, the DOE Psychologist recommended that the Individual attend weekly counseling sessions with the Individual's Counselor "with a goal of decreasing [the Individual]'s episodes of

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<sup>7</sup> As part of the Individual's evaluation, the DOE Psychologist also spoke with the Individual's Counselor, who provided further information regarding the Individual's prior counseling sessions. Ex. 6 at 27-28.

binge drinking.” *Id.* In the alternative, the DOE Psychologist stated that the Individual could attend an outpatient alcohol-focused treatment program for three months, “which meets at least twice per week in group settings and includes a once-a-week individual session.” *Id.* The DOE Psychologist further recommended that the Individual provide monthly negative PEth tests “for the treatment period,” or, if the Individual decided to pursue a path of reformation (*i.e.* “no formal treatment”), provide a monthly negative PEth test for twelve months. *Id.*

In mid-July 2024, the Individual decided to abstain from alcohol because it no longer “align[ed] with [his] religious beliefs[.]” Tr. at 78; *see also id.* at 53 (reflecting the testimony of the Individual’s wife that their church implemented an “honor code” disapproving of alcohol consumption in approximately July 2024). The Individual provided samples for PEth testing on August 23, 2024, September 20, 2024, October 18, 2024, November 15, 2024, December 13, 2024, and January 10, 2025, each of which was negative for traces of alcohol consumption. Ex. A at 3–7; Ex. I at 2.

On July 29, 2024, the Individual received the SSC. Tr. at 76. On August 26, 2024, the Individual began attending an intensive outpatient program (IOP) for alcohol treatment. *Id.* at 13, 76. The Individual attended the IOP four times weekly, which included three, three-hour group counseling sessions, and one, one-hour individualized counseling session. *Id.* at 77. The IOP’s treatment focused on cognitive behavioral therapy, psychoeducation, and mindfulness techniques, which helped the Individual identify his triggers and develop coping skills. *Id.* at 16–17; *see also id.* at 78–79 (reflecting the Individual’s testimony that his coping skills included meditation, relying on his support network, journaling in the workbook that he received from the IOP, and removing himself from situations where alcohol is present). The IOP Counselor testified at the hearing that the Individual “was fully engaged in the program” and “became a leader in [the] group.” *Id.* at 15; *see also id.* at 80 (reflecting the Individual’s testimony that he has not had any problems coping with cravings now because of the skills that he learned during the IOP).

The Individual completed the IOP on December 13, 2024. Ex. B. The IOP Counselor subsequently recommended that the Individual participate in weekly or biweekly individualized counseling sessions with the Individual’s Counselor after discharge from the IOP. Tr. at 21. As of the date of the hearing, the Individual had contacted the Individual’s Counselor, but had not yet attended his first counseling session.<sup>8</sup> *Id.* at 84. The Individual stated his intent to attend weekly counseling sessions once he was able to schedule an appointment. *Id.* at 91.

The Individual testified at the hearing that the adjudication of his eligibility for access authorization had been a “blessing in disguise” as he had “grown as a person” and improved his relationship with his wife. *Id.* at 89; *see also id.* at 50 (reflecting the testimony of the Individual’s wife that the Individual has “better communication skills” as a result of his IOP attendance). He asserted that he now feels more confident, energetic, and healthy as a result of his abstinence from alcohol. *Id.* at 87–88. The Individual noted that he went on a cruise where alcohol was present in late December with his family, but asserted that it was not difficult for him to abstain from alcohol because he “built a plan with [his] family members,” brought his workbook, and attended

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<sup>8</sup> The Individual testified that he had an appointment scheduled with the Individual’s Counselor in late December, but had to cancel due to travel. Tr. at 85, 91. He asserted that the holiday season had made it difficult to reschedule the appointment. *Id.* at 84–85.

Alcoholics Anonymous meetings every day while on the cruise. *Id.* at 86; *see also id.* at 32–33, 49 (reflecting the testimony of the Individual’s wife and father corroborating the Individual’s abstinence from alcohol while on the holiday cruise).

The Individual acknowledged that he had an “unhealthy relationship” with alcohol previously and that it was difficult for him to stop drinking at first, but noted that his abstinence “got[] much easier over time.” *Id.* at 81, 89. He testified that his support system includes his parents, wife, and church. *Id.* at 82, 87; *see also id.* at 41 (reflecting the testimony of the Individual’s father that he and the Individual “talk about everything” and would “work through any issue that comes up”). The Individual asserted that he has no intention of ever drinking again because of his “religious beliefs” and desire to “keep [his] job.” *Id.* at 81; *see also id.* at 62–63, 70–71 (reflecting the testimony of the Individual’s former and current supervisors that the Individual is a reliable employee with a strong work ethic). The Individual also asserted that in the two weeks prior to meeting with the DOE Psychologist in May 2024, he consumed an abnormally high amount of alcohol because he and his wife held their wedding and traveled on their honeymoon during this period. *Id.* at 83. The Individual stated that he did not inform the DOE Psychologist of these circumstances during the evaluation. *Id.* at 93.

The DOE Psychologist testified that the Individual had “exceeded” her recommendations. *Id.* at 101. She noted that the Individual demonstrated not only knowledge of the subject matter covered in the treatment program, but also the ability to implement those skills in his life. *Id.* She additionally cited the Individual’s “very good” support system as a positive factor supporting his recovery. *Id.* In light of these positive developments, the DOE Psychologist testified that the Individual had demonstrated rehabilitation and reformation. *Id.* at 102. She further opined that the Individual “has an excellent prognosis.” *Id.* The DOE Psychologist also noted that, if she had been aware at the time that she issued the Report of the fact that the Individual’s May 2024 PEth test was taken within approximately two weeks of his consumption of higher than usual amounts of alcohol related to his wedding and honeymoon, she would not have concluded that he engaged in binge drinking. *Id.* at 105.

## **V. ANALYSIS**

### **A. Guideline G**

Conditions that could mitigate security concerns under Guideline G include:

- (a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment;
- (b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;

- (c) the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; 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.

At the outset, I note that the DOE Psychologist testified that, if she was aware of the circumstances surrounding the Individual's May 2024 PEth test result, including the fact that the sample was taken within approximately two weeks of the Individual's wedding and honeymoon when he engaged in higher levels of alcohol consumption than he normally would have, she would not have concluded that he engaged in binge drinking at the time. Accordingly, it appears that the concerns alleged in the SSC no longer exist. However, in any event, I will address the mitigating conditions notwithstanding the DOE Psychologist's testimony regarding her changed opinion.

The Individual's statements at the hearing and to the DOE Psychologist during the evaluation all indicate that he would typically consume a twelve-pack of beer over the course of each weekend. In light of this consistent pattern of alcohol consumption, which did not cease until less than six months before the hearing, I find that, assuming that the Individual's behavior constituted alcohol misuse, it did not occur sufficiently long ago, so infrequently, or under such unusual circumstances for the first mitigating condition to apply. *Id.* at ¶ 23(a).

The Individual acknowledged that his prior pattern of alcohol use was maladaptive, completed a sixteen-week IOP, and testified regarding his knowledge and application of the skills learned during the IOP. The DOE Psychologist testified that the Individual "exceeded" her treatment recommendations and adequately demonstrated rehabilitation and reformation. Thus, the Individual has provided evidence of actions taken to overcome his alcohol misuse. Furthermore, the Individual presented the results of six monthly PEth tests taken between August 2024 and January 2025, each of which was negative for traces of alcohol consumption. The DOE Psychologist also testified that the Individual had adequately demonstrated his abstinence from alcohol since July 2024. Thus, I find the second mitigating condition applicable. *Id.* at ¶ 23(b).

The Individual completed a treatment program and is not presently receiving alcohol-related treatment. Thus, the third mitigating condition is inapplicable to the facts of this case. *Id.* at ¶ 23(c).

As previously stated, the Individual completed the IOP as recommended by the DOE Psychologist. Although the Individual had not started his weekly or biweekly aftercare counseling sessions as of the date of the hearing, the DOE Psychologist nonetheless concluded that he was adequately rehabilitated and reformed with an excellent prognosis. Additionally, for the reasons stated in connection with the second mitigating condition, I find that the Individual has sufficiently established a pattern of modified consumption or abstinence in accordance with treatment recommendations. Thus, I find the fourth mitigating condition applicable. *Id.* at ¶ 23(d).

The Individual has established the applicability of two of the mitigating conditions under Guideline G, and the DOE Psychologist opined that she would not have concluded the Individual engaged in binge drinking at the time she issued the Report if she was aware of all the facts that were later revealed during the hearing. For these reasons, I find that the security concerns raised in the SSC under Guideline G are resolved.

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guideline G of the Adjudicative Guidelines. After considering all the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has brought forth sufficient evidence to resolve the security concerns under Guideline G. Accordingly, I have determined that the Individual should be granted access authorization. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick  
Administrative Judge  
Office of Hearings and Appeals