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

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| In the Matter of: Personnel Security Hearing |) | |
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| Filing Date: April 23, 2013 |) | |
| |) | Case No.: PSH-13-0052 |
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Issued: July 9, 2013

Hearing Officer Decision

Steven L. Fine, Hearing Officer:

This Decision concerns the eligibility of XXXXXXXXX (hereinafter referred to as “the Individual”) to hold a security clearance under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, “General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.” As discussed below, after carefully considering the record before me in light of the relevant regulations, I conclude that the Individual’s security clearance should be restored.

I. BACKGROUND

The administrative review proceeding began with the issuance of a Notification Letter to the Individual. *See* 10 C.F.R. § 710.21. The letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. Specifically, the Local Security Office (LSO) alleged that a DOE psychiatrist found that the Individual suffers from alcohol abuse.¹

The Notification Letter informed the Individual that he was entitled to a hearing before a Hearing Officer in order to resolve the substantial doubt regarding his eligibility for a security clearance. The Individual requested a hearing, and the LSO forwarded the Individual’s request to the Office

¹ The Notification Letter alleges that the Individual has: “[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse,” 10 C.F.R. § 710.8(j).

of Hearings and Appeals (OHA). The Director of OHA appointed me as the Hearing Officer in this matter on April 24, 2013.

At the hearing I convened pursuant to 10 C.F.R. § 710.25(e) and (g), I took testimony from the Individual, his spouse, his treating counselor (the Counselor), and a DOE consultant psychiatrist (the Psychiatrist). *See* Transcript of Hearing, Case No. PSH-13-0052 (hereinafter cited as “Tr.”). The LSO submitted nine exhibits, marked as Exhibits 1 through 9, while the Individual submitted seven exhibits, marked as Exhibits A through G.

II. FINDINGS OF FACT

The Individual last consumed alcohol on November 30, 2012. Tr. at 30, 48-49, 68. On December 4, 2012, the Individual informed the LSO of his intention to begin outpatient treatment for alcohol issues. Exhibit 7 at 1. On December 14, 2012, the Individual began an Intensive Outpatient Treatment Program (IOP) at a substance abuse facility. Exhibit 6 at 12. The Individual began this treatment program because he believed himself to be an “alcoholic.” *Id.*; Tr. at 69.

At the request of the LSO, the Psychiatrist evaluated the Individual on February 11, 2013. Exhibit 6 at 1. After completing his evaluation of the Individual, the Psychiatrist issued a report in which he found that the Individual met the criteria set forth in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition-Text Revised (DSM-IV-TR) for Alcohol Abuse. *Id.* at 6. However, the Psychiatrist noted that, “the alcohol abuse is very mild . . . [and] is not causing and should not cause a significant defect in judgment or reliability.” *Id.* at 6-7. Nevertheless, the Psychiatrist further concluded that the Individual was neither reformed nor rehabilitated from his Alcohol Abuse, since he was only two months into his rehabilitation. *Id.* at 6. The Psychiatrist stated that the Individual needed another four months of rehabilitation in order to show adequate reformation or rehabilitation. *Id.*

III. STANDARD OF REVIEW

The Hearing Officer's role in this proceeding is to evaluate the evidence presented by the agency and the Individual, and to render a decision based on that evidence. *See* 10 C.F.R. § 710.27(a). The regulations state that “[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all the relevant information, favorable or unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest.” 10 C.F.R. § 710.7(a). In rendering this opinion, I have considered the Adjudicative Guidelines and following factors: the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, including knowledgeable participation; the frequency and recency of the conduct; the Individual's age and maturity at the time of the conduct; the voluntariness of the Individual's participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct, the potential for pressure, coercion, exploitation, or duress; the likelihood of continuation or recurrence; and other relevant and material factors. *See* 10 C.F.R. § § 710.7(c), 710.27(a). The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. ANALYSIS

The Psychiatrist's finding that the Individual meets the criteria for Alcohol Abuse set forth in the DSM-IV-TR, as discussed above, raises security concerns under Criterion J. 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. *Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, issued on December 29, 2005, by the Assistant to the President for National Security Affairs, The White House (Adjudicative Guidelines) at ¶ 21

The Individual does not dispute that he has an alcohol disorder. He self-identified as "an alcoholic" and self-referred to the IOP. Accordingly, the only remaining question is whether the Individual is sufficiently reformed or rehabilitated from his Alcohol Abuse. After careful consideration of the evidence in the record, I find that the Individual has shown that he is reformed and rehabilitated from his Alcohol Abuse. The derogatory information arising from his Alcohol Abuse diagnosis is therefore sufficiently mitigated.

The Counselor testified that he was the director of the IOP. He also testified that he has been providing individual counseling to the Individual whom he has diagnosed with Alcohol Dependence. *Id.* at 12-13. The Counselor testified that the Individual attended and completed the IOP, a ten-week program which met three times a week for three hours a session. *Tr.* at 11-12, 18. The IOP also required that the Individual attend three Alcoholics Anonymous (AA) meetings each week, and begin the AA's Twelve-Step Program. *Id.* at 14, 17-18, 35. The Counselor testified that the Individual has continued his treatment by enrolling in an aftercare program. *Id.* at 16-17. The Individual has responded well to treatment. *Id.* at 23, 34. The Counselor noted that the Individual's wife and son are supportive and involved in his recovery. *Id.* at 26. The Counselor testified that the Individual is very dedicated to his recovery. *Id.* at 28. The Counselor opined that the Individual's risk for relapse is "low." *Id.* at 31. The Counselor opined that the Individual's prognosis is "fair." *Id.* The Counselor testified that he has never said a substance abuse patient's prognosis was "very good" or "excellent" and that a "fair" prognosis was the best he would ever give. *Id.* at 35.

The Individual's spouse testified that she and their son (who had recently attended the IOP) had encouraged the Individual to seek treatment. *Tr.* at 42. The spouse stated that as a result of the IOP, the Individual is "a different person." *Id.* at 46. Specifically, he is now a great deal more communicative. *Id.* at 48, 54. He also seems happier. *Id.* at 52. He has become very involved in his treatment and has developed strong relationships with the people he is in treatment with. *Id.* at 47. He is now handling his stress in a positive manner. *Id.* at 51.

The Individual testified at the hearing that individual counseling has helped him learn his "triggers" for drinking and to develop effective coping strategies. *Tr.* at 60. He also testified that the IOP taught him about managing cravings for alcohol and the importance of reaching out to others if he needs help. *Id.* at 61, 68. He testified that he has been attending AA,

implementing the AA's Twelve-Step Program, and working with a sponsor. Tr. at 63-66. He intends to stay active in AA for the rest of his life. Tr. at 73. The Individual testified that he plans to abstain from using alcohol in the future, because he is "an alcoholic." Tr. at 69. He testified that the key to his recovery is managing his stress constructively, and that he has learned to improve his communication skills in order to manage his stress. Tr. at 72- 74.

At the hearing, the Psychiatrist observed the testimony of each of the other witnesses before he testified. The Psychiatrist testified that he believed that Alcohol Abuse was a more appropriate diagnosis for the Individual than Alcohol Dependence, since he could only confirm two of the criteria for Alcohol Dependence, when the DSM-IV-TR requires that at least three of the diagnostic criteria be met in order to find Alcohol Dependence. Tr. at 76-77. He testified that the Individual is rehabilitated and reformed from his Alcohol Abuse. Tr. at 77. He based this conclusion on several factors: (1) the Individual's level of commitment to his sobriety "was clearly obvious," (2) the Individual is open and honest about his alcohol issues, (3) the Individual is "motivated and engaged in treatment," and (4) he has "gone from the external motivation for treatment . . . to an internal motivation." Tr. at 78. The Psychiatrist noted that in his report, he recommended that the Individual continue his treatment and abstinence from alcohol for six months, and the Individual has now done so. *Id.* at 78-79. The Psychiatrist testified that the Individual's probability for relapse is "low." *Id.* at 79. He testified that the Individual's prognosis is "good." *Id.* at 80. The Psychiatrist also cited the support of the Individual's family as a factor which enhances the likelihood that the Individual's recovery will successfully continue. *Id.*

Based upon the evidence in the record, including the Psychiatrist's testimony that the Individual had fully complied with the treatment recommendations set forth in his Report, I find that the Individual has sufficiently mitigated the security concerns raised under Criterion J by his Alcohol Abuse. In addition, I was persuaded by the testimony provided by the Counselor that the Individual is reformed and rehabilitated from his Alcohol Abuse. Moreover the record shows that the Individual acknowledges his issues of alcohol abuse, has provided evidence of actions taken to overcome this problem, has established a pattern of abstinence, has successfully completed outpatient counseling and rehabilitation, has participated in AA, and has received a favorable prognosis by a duly qualified medical professional, all of which are mitigating factors cited in the Adjudicative Guidelines. Adjudicative Guidelines at ¶ 23(b) and (d).

V. CONCLUSION

For the reasons set forth above, I conclude that the LSO properly invoked Criterion J. I find that the Individual has successfully mitigated the security concerns raised under Criterion J. Accordingly, the Individual has demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, the Individual's security clearance should be restored at this time. The DOE may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine
Hearing Officer
Office of Hearings and Appeals

Date: July 9, 2013