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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 11, 2012                            )  
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Issued: December 6, 2012

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**Decision and Order**

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Robert B. Palmer, Hearing Officer:

This Decision concerns the eligibility of XXXXXXXXX (hereinafter referred to as “the individual”) for access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.”<sup>1</sup> For the reasons set forth below, I conclude that the individual should be granted a security clearance.<sup>2</sup>

**I. BACKGROUND**

The individual is employed by a Department of Energy (DOE) contractor, and applied for a DOE security clearance in connection with that employment. During the ensuing investigation, the local security office (LSO) obtained information about the individual’s alcohol use that raised security

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<sup>1</sup>An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will also be referred to in this Decision as a security clearance.

<sup>2</sup> Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.oha.doe.gov> . The text of a cited decision may be accessed by entering the case number of the decision in the search engine located at <http://www.oha.doe.gov/search.htm>.

concerns. Consequently, the LSO summoned the individual for two interviews with a personnel security specialist in December 2011. After these personnel security interviews (PSIs) failed to adequately address the LSO's concerns, the individual was referred to a local psychiatrist (hereinafter referred to as "the DOE psychiatrist") for an agency-sponsored evaluation. The DOE psychiatrist performed an evaluation of the individual in February 2012, and prepared a report for the LSO. After reviewing this report and the rest of the individual's personnel file, the LSO determined that derogatory information existed that cast into doubt the individual's eligibility for a security clearance. It informed the individual of this determination in a letter that set forth the DOE's security concerns and the reasons for those concerns. I will hereinafter refer to this letter as the Notification Letter. The Notification Letter also informed the individual that he was entitled to a hearing before a Hearing Officer in order to resolve the substantial doubt concerning his eligibility for an access authorization.

The individual requested a hearing on this matter. The LSO forwarded this request to the Office of Hearings and Appeals, and I was appointed the Hearing Officer. The DOE introduced ten exhibits into the record of this proceeding and presented the testimony of the DOE psychiatrist. The individual presented the testimony of five witnesses, in addition to testifying himself.

## **II. THE NOTIFICATION LETTER AND THE DOE'S SECURITY CONCERNS**

### **A. The Notification Letter**

As indicated above, the Notification Letter included a statement of derogatory information that created a substantial doubt as to the individual's eligibility to hold a clearance. This information pertains to paragraphs (h) and (j) of the criteria for eligibility for access to classified matter or special nuclear material set forth at 10 C.F.R. § 710.8.

Under criterion (h), information is derogatory if it indicates that an individual has an illness or mental condition which, in the opinion of a psychiatrist causes, or may cause, a significant defect in the individual's judgement or reliability. 10 C.F.R. § 710.8(h). Criterion (j) relates to derogatory information indicating that the individual "has been, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist . . . as alcohol dependant or as suffering from alcohol abuse." 10 C.F.R. § 710.8(j). As support for these criteria, the Letter cites the diagnosis of the DOE psychiatrist that the individual suffers from Alcohol Abuse, and that this condition causes, or may cause, a significant defect in the individual's judgement or reliability. The Letter also relies on statements made by the individual during his psychiatric evaluation or his PSIs indicating that he:

1. Intends to continue his current level of alcohol consumption, which consists of drinking three or four mixed drinks over three or four hours once or twice a week, and drinking to intoxication one to eight times a month by consuming three to ten beers over a two-to-four hour period;
2. Drank to intoxication three days prior to his psychological evaluation and on the evening before each of his PSIs;
3. Experienced alcoholic blackouts approximately once every two months after consuming eight to ten drinks;
4. Consumed anywhere from two to four drinks on average and up to six to eight drinks as a maximum, becoming intoxicated three to four times a month from October 2007 to October 2009;
5. Drank to intoxication five or six times per month from September 2006 to October 2007 by consuming four to six drinks in two hours;
6. Drank alcohol every Friday or Saturday night after he graduated from college in May 2005, becoming intoxicated one to three times per week after consuming four to six beers over a two-hour period; and
7. Drank to intoxication two to four times per week during his college years (2001-2005), consuming six to eight drinks in two hours.

#### **B. The DOE's Security Concerns**

The individual does not contest the allegations set forth in the Notification Letter. This derogatory information adequately justifies the DOE's invocation of criteria (h) and (j), and raises significant security concerns. Mental conditions that involve the excessive consumption of alcohol, such as alcohol abuse, often lead to the exercise of questionable judgement or the failure to control impulses, and can therefore raise questions about an individual's reliability and trustworthiness. *See Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, The White House (December 19, 2005), Guidelines G and I.*

### **III. REGULATORY STANDARDS**

The criteria for determining eligibility for security clearances set forth at 10 C.F.R. Part 710 dictate that in these proceedings, a Hearing Officer must undertake a careful review of all of the relevant facts and circumstances, and make a “common-sense judgment . . . after consideration of all relevant information.” 10 C.F.R. § 710.7(a). I must therefore consider all information, favorable or unfavorable, that has a bearing on the question of whether granting or restoring a security clearance would compromise national security concerns. Specifically, the regulations compel me to consider the nature, extent, and seriousness of the individual’s conduct; the circumstances surrounding the conduct; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the likelihood of continuation or recurrence of the conduct; and any other relevant and material factors. 10 C.F.R. § 710.7(c).

A DOE administrative proceeding under 10 C.F.R. Part 710 is “for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization.” 10 C.F.R. § 710.21(b)(6). Once the DOE has made a showing of derogatory information raising security concerns, the burden is on the individual to produce evidence sufficient 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). *See Personnel Security Hearing*, Case No. VSO-0013, 24 DOE ¶ 82,752 at 85,511 (1995) (*affirmed* by OSA, 1996), and cases cited therein. The regulations further instruct me to resolve any doubts concerning the individual’s eligibility for access authorization in favor of the national security. 10 C.F.R. § 710.7(a).

#### **IV. ANALYSIS**

As the individual does not contest the accuracy of the derogatory information set forth in the Notification Letter or the DOE psychiatrist’s diagnosis of Alcohol Abuse, the only issue to be decided is whether the individual is exhibiting adequate evidence of reformation or rehabilitation. Based on the testimony of the individual and his witnesses, and on the testimony of the DOE psychiatrist, I find that the individual has demonstrated adequate evidence of rehabilitation from his Alcohol Abuse.

The individual testified that his psychiatric evaluation was an “eye-opener,” and that he decided to permanently abstain from alcohol use afterwards. Hearing Transcript (Tr.) at 16, 19. He explained that, although his alcohol use, along with other issues, had been discussed during his PSIs, it was not until he received his diagnosis of Alcohol Abuse from a trained mental health professional that he realized the gravity of his condition. Tr. at 17. At the DOE psychiatrist’s suggestion, he began attending Alcoholics Anonymous (AA) meetings, and he attends these meetings three times per

week. Tr. at 20. He does not currently have an AA sponsor, but he is looking for one. Tr. at 38. With this AA support, he continued, he has had no problems maintaining his sobriety, and hasn't "felt the need to go back" to drinking. Tr. at 25. "It's not a part of my life I need any more," he explained. Tr. at 37.

The individual's girlfriend, who is a licensed drug and alcohol abuse therapist, also testified. She said that she met the individual after his psychiatric evaluation in late February 2012, through a friend who is a tenant in a house owned by the individual. Tr. at 98. Since that time, she has not seen the individual consume alcohol on any of the four to five occasions per week that she sees him. Tr. at 99-100. Although she has not stopped drinking, she does not drink when she goes out in public with the individual because she believes that it would send a mixed message to any of her clients who might be observing her on such occasions. Tr. at 103. She testified that her drinking is limited to occasions on which she has friends come to her home. *Id.* The individual has integrated sobriety into his lifestyle, and has expressed his sincere intention to continue abstaining from alcohol and to continue to attend AA. Tr. at 104-105. In fact, the individual's girlfriend said that, for personal and professional reasons, she would probably stop seeing the individual if he was to return to his previous pattern of alcohol usage. Tr. at 121, 127. She concluded that he is "taking ownership and responsibility" for his recovery and working the AA's twelve-step program, and that his prognosis for continued sobriety is good. Tr. at 107.

The individual's friend, his tenant, his fellow AA participant, and his work supervisor testified as well. The friend, the tenant, and the supervisor all testified that, to the best of their knowledge, the individual had not consumed alcohol since late February 2012. Tr. at 47, 65, 94, 96. The AA participant said that the individual is very engaged in his AA meetings, seems committed, and has an excellent prognosis for remaining sober as long as he adheres to AA's precepts. Tr. at 78-79, 81, 87.

Finally, the DOE psychiatrist testified. After hearing the testimony of the individual and his witnesses, the DOE psychiatrist concluded that the individual's prognosis was good, and his chances of relapsing into alcohol abuse were low. Tr. at 137, 140. He said that before his psychiatric evaluation, the individual "seemed oblivious" to the fact that his alcohol consumption was a problem, both for security reasons and personal reasons. Tr. at 131. However, during their interview, he "began to catch on" that drinking to intoxication once or twice a week "was not a healthy thing to do," either vocationally or for "life in general." *Id.*

The DOE psychiatrist then cited several factors that supported his favorable prognosis. He said that, whereas initially the individual was in denial about his alcohol use disorder, after his evaluation he immediately realized that he had a drinking problem, stopped consuming alcohol, and started

attending AA. Tr. at 133. He found the individual to be strongly motivated to quit drinking, by the possible loss of both his job and his girlfriend. Tr. at 135. He further cited the individual's eight months of abstinence, his apparent ability to socialize with people who are drinking alcohol without feeling the need to drink himself, and his sincerely-stated intention to refrain from all future alcohol use. Tr. at 135-136. The DOE psychiatrist concluded that the individual is not currently suffering from a condition that would lead to a significant defect in his judgement or reliability. Tr. at 139.

This testimony has persuaded me that the individual's chances of returning to an abusive pattern of alcohol use are low. I note that much of the individual's abusive drinking occurred during his tenure in college, and before he had assumed the responsibility of full-time employment. I believe that the individual is now more mature, and fully realizes the possible consequences of failing to maintain his sobriety. I am also impressed by the positive diagnostic factors cited by the DOE psychiatrist during his testimony, and I therefore conclude that the individual has fully mitigated the DOE's security concerns regarding his alcohol use.

## **VI. CONCLUSION**

As set forth above, I find that the individual has successfully addressed the DOE's security concerns under criteria (h) and (j). I therefore conclude that he has demonstrated that granting him access authorization would not endanger the common defense and would be clearly consistent with the national interest. Accordingly, I find that the individual should be granted a security clearance. The DOE may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Robert B. Palmer  
Hearing Officer  
Office of Hearings and Appeals

Date: December 6, 2012