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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 15, 2023)	Case No.: PSH-23-0086
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)	

Issued: September 21, 2023

Administrative Judge Decision

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) to hold an 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.”¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual’s access authorization should not be granted.

I. Background

On March 21, 2022, the Individual signed and submitted a Questionnaire for National Security Positions (QNSP) to a Local Security Office (LSO) in which she reported that she had been hospitalized in February 2007 “with mental health concerns during my teenage years.” Exhibit (Ex.) 9 at 1, 44. The Individual also reported that she had been arrested for Driving Under the Influence (DUI) in February 2017. Ex. 9 at 45. The Individual also answered “yes” to a question in the QNSP that stated: “**In the last seven (7) years** has your use of alcohol had a negative impact on your work performance, your professional or personal relationships, your finances, or resulted in intervention by law enforcement/public safety personnel?” Ex. 9 at 49 (emphasis in the original). The Individual further reported that she had voluntarily sought counseling for her alcohol use, although that counseling ended up being mainly focused on her mental health issues instead. Ex. 9 at 50. She reported that she received these counseling services from October 2020 to January 2021. Ex. 9 at 50.

¹ 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.

On May 26, 2022, an Office of Personnel Management Investigator (“Investigator”) conducted a Triggered Enhanced Subject Interview (TESI) of the Individual, during which she admitted that the police had been called to her home on several occasions for domestic disturbances. Ex. 10 at 72. The Individual reported that she was currently receiving counseling services from a psychiatrist, who had prescribed her Lexapro for depression and anxiety. Ex. 10 at 74. The Individual reported that she received inpatient mental health treatment at age 14 that “followed a voluntary request she made to her mother due to suicidal feelings she had as a result of relationship problems.” Ex. 10 at 74. The Individual admitted to binge drinking during her college years and monthly alcohol-induced blackouts in 2016-2017, with her last alcohol-induced blackout occurring in November 2021. Ex. 10 at 77. The Individual denied any personal, job-related, or school issues caused by her alcohol use. Ex. 10 at 77. She did not consider herself to have an alcohol problem. Ex. 10 at 77.

The Investigator obtained copies of the Individual’s arrest records which indicated that the Individual had been arrested on at least six occasions: on July 4, 2007, for “Marijuana Use”; on February 3, 2009, for “Battery against a Household Member; and Concealing Identity”; on July 31, 2009, for “Battery against a Household Member,” “Disorderly Conduct,” “Profane/Loud/Boisterous,” “Resist/Evade/Obstruct Officer Fleeing,” and “Criminal Trespass”; on December 11, 2013, for “Battery”; on July 11, 2014, for “Battery Against a Household Member”; and, on January 30, 2015, for “Battery Against a Household Member.”² Ex. 10 at 88.

These arrest records included several police reports and other records concerning the Individual prepared by her local police department showing that she had a significant history of interactions with that department during the period beginning on November 15, 2006, and continuing through November 4, 2021. Ex. 10 at 109–209. The Individual’s behaviors documented in these reports indicate that she repeatedly engaged in violent behavior towards two ex-boyfriends, a member of her family of origin, and other individuals. Ex. 10 at 118–119, 131, 135, 138–139, 141–142, 146–147, 188–189, 193, 198, 201, 204–206. The Individual also repeatedly engaged in stalking or threatening behavior. Ex. 10 at 131, 135, 188, 193, 198, 201–202. The reports also document at least one suicide threat by the Individual. Ex. 10 at 126–127. The incidents documented in these police reports include more than one instance where the Individual refused to cooperate with police officers or physically resisted the police. Ex. 10 at 118–119, 135, 187–189, 193. In several instances, police officers reported observing injuries to persons who indicated that the Individual had attacked them. Ex. 10 at 142, 146–147, 201, 204–205.

On February 7, 2023, the Individual reported an incident that occurred on January 8, 2023, to the LSO. Ex. 6 at 1–2. An incident report prepared by the LSO (“IR”) states:

A loud argument was had between the subject's boyfriend and the subject while in his back yard. Neighbors called to report the noise and the police came to check on the situation. They didn't feel an arrest was necessary as the subject and her boyfriend cooperative and explained the situation similarly. The argument had ended prior to the police arriving and they offered to drive the subject to her house. They explained that when a report is made a summons is the minimum they are required to issue and encouraged that the subject and her boyfriend not see each

² The Individual had reported several of these incidents during the TESI. Ex. 10 at 75–76.

other for 24 hours. They both abided by this order. The subjects boyfriend does not intend to press any charges. The summons came in the mail on 1/25/2023 and the information was reported to [the DOE facility's] personnel security office on 2/7/2023.

Ex.6 at 2. The IR further indicates: "Court date will occur on 3/6/2023."

After receiving the Investigator's report, the LSO requested that she undergo an evaluation by a DOE-contracted psychologist (Psychologist), who conducted a clinical interview (CI) of the Individual on January 13, 2023. Ex. 7 at 2. In addition to conducting the CI, the Psychologist administered a standardized psychological screening test, the Minnesota Multiphasic Personality Inventory, Third Edition ("MMPI-3") to the Individual and had her undergo a Phosphatidylethanol (PEth) laboratory test to detect alcohol consumption. Ex. 7 at 2. The Individual's PEth test result was positive, indicating that she had recently used alcohol. Ex. 7 at 8. The Psychologist opined that the Individual's particularly high PEth level, 708ng/mL, suggested that she was consuming large amounts of alcohol. Ex. 7 at 7–8. Her MMPI-3 scores indicated several elevated scales including Malaise, Suicide/Death Ideation, Self-Doubt, Worry, and Social Avoidance. Ex. 7 at 9.

During the CI, the Individual reported that she experienced depression and suicidal ideation as a teenager and had engaged in self-harm by cutting her wrists and arms. Ex. 7 at 4. The Individual reported that she had been hospitalized in 2009 (when she was 17) for two weeks after she had attempted suicide. Ex. 7 at 4. This suicide attempt occurred after she had discontinued her medications, Abilify and Fluoxetine, that had been prescribed to address her mood swings. Ex. 7 at 4. The Individual reported that, after her hospitalization, she was diagnosed with Borderline Personality Disorder (BPD) and attended individual, family, and group therapy for approximately 18 months. Ex. 7 at 4. She also reported meeting with a psychiatrist, who prescribed several medications which the Individual unilaterally discontinued without giving them a chance to work. Ex. 7 at 4. The Individual further reported that she "reached out for help" for her alcohol issues and depression in August 2019 and began receiving individual and medication therapy from a practical nurse (PN), who prescribed Sertraline to treat the Individual's anxiety and depression and diagnosed the Individual with BPD. Ex. 7 at 5–7. In October 2020, the Individual informed the NP that she stopped using Sertraline. Ex. 7 at 6. The PN reported that the Individual had discontinued her medication without consulting her providers and characterized that decision as "an example of non-compliance. Ex. 7 at 6.

The Psychologist's report states:

[The Individual reported that in 2020] she experienced symptoms of depression, anxiety, and she began to have nightmares. . . . She described having invasive thoughts about suicide and would visualize herself hanging from a tree when she was out on walks. She reported that these visions were 'invasive,' rather than 'fantasies' as she had no desire or intent of harming herself. Although she denied suicidal intent, she admitted to having passive thoughts of death . . . associated with depression. During this same period (exact dates unknown), [the Individual] also described having two episodes of rapid mood shifts. She reported that the first episode occurred early in the pandemic and started after two or three days of

insomnia. She could not recall details of her moods during this episode but remembers feeling “super excitable” and then “distressed” due to the insomnia. Her second episode occurred after another three-day “stint” of no sleep. She described the same feeling of being “super excited” followed by feelings of paranoia.

Ex. 7 at 6.

The Individual was prescribed Sertraline again in May 2021. Ex. 7 at 6. In August 2021, she was prescribed Escitalopram, which helped stabilize her mood, make her feel less impulsive, and have “healthier thoughts. Ex 7 at 6–7. However, the Individual reported that she stopped receiving treatment for her mental health issues in October 2022 and discontinued her medication at the time. Ex. 7 at 7. The Individual further reported that she was first diagnosed with BPD when she was 15. Ex 7 at 7. The Individual reported that she continues to experience depression and anxiety and acknowledged her “history of problematic drinking behavior.” Ex. 7 at 7–8. During the CI, the Individual stated that she was currently consuming alcohol once every two weeks, when she would typically have three drinks. Ex. 7 at 8. The Psychologist noted that the Individual had reported hospitalizations for her psychological conditions in 2007 and 2010, but also claimed she had only been hospitalized once. Ex. 7 at 9.

The Psychologist reported that the Individual discussed the January 8, 2023, incident during the CI. Ex. 7 at 3. Concerning this incident, the Psychologist’s report states in pertinent part:

On 01/08/2023, one-week before our evaluation, [the Individual] and her boyfriend got into an argument after their dog died. One of their neighbors called the police and she admitted to being the aggressor in their argument. She did not note whether alcohol was involved in this incident. She was not arrested but is expecting a summons.

Ex. 7 at 3.

After considering all the information available to her, the Psychologist issued a report (the Report) on January 23, 2023, in which she concluded that the Individual met the criteria for BPD, Alcohol Use Disorder, Severe (AUD), and Major Depressive Disorder, Recurrent, Mild (MDD) set forth in the Diagnostic and Statistical Manual 5-Text Revision (DSM-5-TR). Ex. 7 at 10–12. She further opined that the Individual’s BPD and MDD impaired the Individual’s judgment, reliability, and trustworthiness. Ex. 7 at 12.

In order to treat her AUD, the Psychologist recommended that the Individual: attend an Intensive Outpatient Program (IOP); attend the IOP’s Aftercare program; abstain from using alcohol for at least one year; attend three Alcoholics Anonymous (AA) meetings a week for one year; and participate in AA’s Twelve-Step Program with a Sponsor for one year. Ex. 7 at 12. In order to treat the Individual’s BPD, the Psychologist recommended that the Individual engage in intense treatment with a therapist trained in working with personality disorders and experienced in dialectical behavioral therapy (DBT). Ex. 7 at 12. The Psychologist further opined that “Even with sound treatment it generally takes months to years to change such behavior.” Ex. 7 at 12.

The Psychologist further stated: “A prognosis cannot be provided as it would depend upon [the Individual’s] response to treatment.” Ex. 7 at 12. The Psychologist further opined:

[The Individual] acknowledges her mental health history as well as her history of associated alcohol use and she has made efforts to move forward in her life. Although she is insightful in some areas, she continues the same behaviors that have caused problems for the past 15 years (e.g., drinking, aggression). Borderline personality disorder is a condition that impairs judgment and may cause her to be easily influenced by her emotions. This can be seen in [the Individual’s] lengthy history of domestic disputes where she has been named as the aggressor in each case. During her evaluation, she reported yet another dispute that occurred one week ago. Given this incident occurred while she is undergoing this investigation, it is likely that these incidents will occur in the future because it shows that she lacks control even when she is under scrutiny.

Ex. 7 at 7.

After receiving the Report, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing her that she was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding her eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

On May 4, 2023, the Individual submitted her response to the Notification Letter in which he requested a hearing. Ex. 2 at 1. The LSO forwarded her response 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), I took testimony from eight witnesses: the Individual, her mother (Mother), her boyfriend (Boyfriend), her supervisor (Supervisor), her coworker (Coworker), her certified peer group support worker (CPGSW), her treating psychiatrist (Psychiatrist), and the Psychologist. *See* Transcript of Hearing, Case No. PSH-23-0086 (hereinafter cited as “Tr.”). The LSO submitted 10 exhibits, marked as Exhibits 1 through 10. The Individual submitted seven exhibits, marked as Exhibits A through G.

Exhibit A consists of laboratory reports for PEth tests administered to the Individual on April 7, 2023; May 5, 2023; June 5, 2023; July 7, 2023; August 4, 2023; and August 31, 2023. The test administered to the Individual on April 7, 2023, was positive. Ex. A at 1. The other five PEth tests were each negative. Ex. A. Exhibit B consists of several documents pertaining to the Individual’s treatment at the IOP, including the results of urinalysis tests for drugs and alcohol conducted on the Individual on March 29, 2023; April 10, 2023; May 1, 2023; May 11, 2023; May 15, 2023; May 24, 2023; May 31, 2023; June 5, 2023; June 14, 2023; June 21, 2023; June 26, 2023; and July 6, 2023. Each of these tests were uniformly negative, although the tests administered to the Individual on May 15, 2023, and May 24, 2023, had low creatinine levels (an indicator of possible specimen tampering). Exhibit B also includes a Certificate of Completion for the IOP, dated July 6, 2023. Exhibit C consists of a letter dated June 7, 2023, confirming that the Individual has enrolled in a 12-week group skills, training, and therapy program as well as a certificate dated August 2, 2023, indicating that she had successfully completed that program. Exhibit D is a Certificate of Completion for a “4 Hour Anger Management Class” completed by

the Individual on March 13, 2023. Exhibit E consists of several awards earned by the Individual from her employer, several academic honors earned by the Individual, and a Certificate of Appreciation for her volunteer activities. Exhibit F is the Psychiatrist's curriculum vita. Exhibit G is a letter dated September 6, 2023, from a therapist indicating that the Individual had completed an intake assessment at her facility on July 17, 2023, and had attended three therapy sessions.

II. The Notification Letter and the Associated Security Concerns

The Summary of Security Concerns (SSC) attached to the Notification Letter informed the Individual that information in the possession of the DOE created substantial doubt concerning her eligibility for a security clearance under Guidelines G (Alcohol Consumption), I (Psychological Conditions), and J (Criminal Activity) of the Adjudicative Guidelines.

Under Guideline G, the LSO cites the Individual's DUI arrest, an alcohol-related arrest for battery, and the Psychologist's conclusion that the Individual meets the DSM-5-TR's criteria for AUD, Severe. This information adequately justifies the LSO's invocation of Guideline G. Under Guideline G, "[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness." Adjudicative Guidelines at ¶ 21. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are "alcohol-related incidents away from work, such as driving while under the influence, fighting, . . . 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;" and "diagnosis by a duly qualified . . . clinical psychologist . . . of alcohol disorder." Adjudicative Guidelines at ¶ 22(a) and (d).

Under Adjudicative Guideline I, the LSO cites the Psychologist's conclusions that the Individual meets the DSM-5-TR's criteria for BPD and MDD. These allegations adequately justify the LSO's invocation of Guideline I. The Adjudicative Guidelines state: "[c]ertain emotional, mental, or personality conditions can impair judgement, reliability, or trustworthiness." Adjudicative Guidelines at ¶ 27. Among those conditions set forth under Guideline I that could raise a disqualifying security concern is "[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgement, stability, reliability or trustworthiness." Adjudicative Guidelines at ¶ 28(b).

Under Guideline J, the LSO cites the Individual's history of seven arrests for battery, her DUI arrest, her arrest for possession of drug paraphernalia, and an incident in which police were called to her home after she bit her brother. These allegations adequately justify the LSO's invocation of Guideline J. The Adjudicative Guidelines state: "[c]riminal activity creates doubt about a person's judgment, reliability, and trustworthiness." Adjudicative Guidelines at ¶ 30. Among those conditions set forth in the Guidelines that could raise a disqualifying security concern is "[e]vidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted." Adjudicative Guidelines at ¶ 31(b).

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 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 to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Hearing Testimony

At the hearing, the Supervisor testified that the Individual is one of his employees, who he sees two or three times a week at work. Tr. at 18–19. He has observed her consuming alcohol on one occasion, when she consumed in moderation at a social event. Tr. at 20. He described the Individual as a "great worker." Tr. at 21–22. He has not observed any sign indicating that the Individual is abusing alcohol. Tr. at 24. He opined that the Individual is reliable, trustworthy, has very good judgment and complies with laws, rules, and regulations. Tr. at 24–26.

The Psychiatrist testified at the hearing that he has been treating the Individual since May 18, 2023, when he conducted a comprehensive psychiatric assessment of her. Tr. at 39. Since then, he has seen her on two more occasions, on July 27, 2023, and August 29, 2023. Tr. at 39, 56. He met with the Individual for 60 minutes for their first meeting and for 30 minutes during the other two meetings. Tr. at 59. He testified that his role in her treatment has been to provide medication management and recommendations for psychotherapy. Tr. at 40. The Psychiatrist testified that the Individual "is involved in an alcohol treatment program. She also is involved in medication management of behavioral health issues, as well as psychotherapy to address substance use and behavioral health issues." Tr. at 45. He diagnosed the Individual with AUD and Generalized Anxiety Disorder (GAD). Tr. at 39. He testified that the Individual's AUD is currently in early remission. Tr. at 40. He further testified that at the time that he assessed the Individual, she did not meet the criteria for BPD and opined that she has not met those criteria "to date." Tr. at 39. He opined that the Individual has been very candid with him, and that she has undergone "very significant, very marked" improvement since he began treating her. Tr. at 41. He testified that he had observed the Individual's improvement in the areas of impulse control, anxiety, and frustration

tolerance. Tr. at 41. These improvements, the Psychiatrist testified, “reflect her adherence and commitment to treatment plans.” Tr. at 41–42. The Psychiatrist testified that the Individual’s efforts have reduced her chances of “recurrence.” Tr. at 41–42. He has prescribed the Individual with Escitalopram, propranolol, (to treat anxiety or panic attacks) and Ondansetron, which treats nausea. Tr. at 42–43. The Psychiatrist testified that Escitalopram is a selective serotonin reuptake inhibitor (SSRI) that is used to treat various psychiatric and behavioral health conditions including depression and anxiety, and “is used for patients particularly, that have the diagnoses or features of - - and traits of borderline personality disorder to help manage impulse control.” Tr. at 61. The Individual’s laboratory test results and her patient reports indicate, to the Psychiatrist, that she has been abstaining from alcohol use. Tr. at 43. He reported that the Individual has been actively engaged in all aspects of her IOP, where she was “very stable in regards to her attendance and participation.” Tr. at 43. She satisfactorily completed the IOP and is “very actively engaged currently in the aftercare program.” Tr. at 46. The Individual referred herself to the Psychiatrist, which he considered to be a very good prognostic indicator. Tr. at 44. Her progress in therapy has been “very consistent.” Tr. at 44. The Psychiatrist further opined:

[The Individual] continues to improve in the areas that we discussed earlier, management of anxiety, frustration tolerance, impulse control. She's been attending all those appointments, as well adherent to treatment plans, showing good progress as far as behavioral changes, continues to work on . . . addressing these issues in therapy, and is still continuing to . . . engage in that. And there's no . . . indication that she will stop attending therapy at this time.

Tr. at 44.

The Psychiatrist further testified that the Individual is making “very satisfactory” progress in her treatment program and has been “very clear about expressing her intentions to continue therapy.” Tr. at 46. The Psychiatrist opined that the Individual’s prognosis is “very good” and that there is a “low chance” of her relapsing. Tr. at 46–47, 49. He further testified: “I have a very low index of concern for past behaviors repeating themselves given her continued engagement in all areas of treatment.” Tr. at 47. The Psychiatrist testified that he had reviewed the Psychologist’s report, including the diagnosis of BPD. Tr. at 47.

While the Psychiatrist testified that he did not dispute the Psychologist’s findings that the Individual met the DSM-5-TR criteria for BPD, he further testified: “I do not believe that [the Individual] meets the criteria for borderline personality disorder at present.” Tr. at 47. He attributed the Individual’s lack of BPD symptoms to her treatment for AUD and behavioral health issues, her medication therapy, and “multiple modalities of psychotherapy.” Tr. at 47. He testified that BPD is readily controllable with treatment “provided that it is the right treatment, which [the Individual] is engaged in.” Tr. at 48. The Psychiatrist did not provide any testimony directly disputing the Psychologist’s finding that the Individual had MDD, other than to indicate that he had not diagnosed her with that disorder. Tr. at 51. The Psychiatrist opined that abstaining from alcohol use can have a significant effect on resolving BPD and MDD. Tr. at 51–52. The Psychiatrist testified that the Individual receives DBT, which he described as a treatment “specifically for managing and regulation – and regulating, you know, behavior impulse control, frustration tolerance and things like that.” Tr. at 57–58. She also continues to see a therapist at

the IOP and attends SMART Recovery (SR) meetings. Tr. at 58–59. He is not aware of the Individual relapsing at any time during his treatment of her. Tr. at 60. The Psychiatrist does not see the Individual as a suicide risk. Tr. at 65–66.

The Boyfriend testified at the hearing that he has been dating the Individual since March 2022, and has daily contact with her. Tr. at 77. He testified that the Individual stopped consuming alcohol on March 17, 2023, and that he has not observed her using alcohol since then. Tr. at 78, 86. He testified that she stopped drinking to obtain her security clearance and preserve her personal relationships. Tr. at 78. He stated that she abstains even when others are using alcohol in her presence. Tr. at 78–79. The Boyfriend testified: “I am in support of her sobriety, and I make a concerted effort to let her know that as often as I can.” Tr. at 79. He has not observed the Individual exercising questionable judgment or failing to control her impulses since she stopped using alcohol. Tr. at 79–80. The Boyfriend opined that the Individual is very reliable and trustworthy. Tr. at 79–80. He believed that the Individual had a problem with alcohol before she entered treatment and that it had negatively affected their relationship. Tr. at 82. He had discussed this concern with the Individual before she decided to abstain from using alcohol and had urged her to stop using alcohol on several occasions. Tr. at 83, 88. He testified that he was present at the January 2023 incident which led to the police being summoned. Tr. at 82. The Boyfriend testified that, during that incident, the Individual brought alcohol to his home when he had made it clear to her that he didn’t want her to do so. Tr. at 82–83. He stated that an argument ensued which spilled into the backyard and that when he asked her to leave, she responded by throwing a glass bottle at his house and trying to enter his home against his wishes. Tr. at 83. He indicated that the Individual no longer keeps alcohol in her home. Tr. at 84. The Boyfriend testified that the Individual’s alcohol classes and therapy groups “give her a sense of community or connection.” Tr. at 85. He reported that the Individual has three or four sobriety-related meetings each week. Tr. at 85–86. Since she has stopped using alcohol, the Boyfriend testified, the Individual has experienced “a pretty profound change in terms of, you know, kind of overall mental health. I think she is very cheerful and enthusiastic . . .” Tr. at 86. The Boyfriend reported that the Individual has indicated that “at one point she would like to be able to have drinks socially . . . she is also very steadfast in continuing to abstain if -- if she feels like that's the best pursuit for her.” Tr. at 87. The Individual testified that after her treatment, the Individual now “takes a much more methodical, kind of calm approach to expressing her feelings and, you know, concerns or doubts or anything like that, and that provides, you know, us the opportunity to navigate in such a way that is peaceful.” Tr. at 89. He further testified that there has “been a pretty profound difference in [her] mood stability. Tr. at 89–90. He also reported that she has expressed gratitude for her support network. Tr. at 90.

The Coworker testified at the hearing that she met the Individual at work and has worked with her since June 2022. Tr. at 95. Although she does not supervise the Individual, she indicated that he often oversees the Individual’s work. Tr. at 95–96. The Individual has informed her that she does not use alcohol. Tr. at 97, 104. The Coworker agreed with the Individual’s counsel that the Individual is a “self-starter” and is “motivated to become a better worker and a better individual.” Tr. at 98. She testified that on two or three occasions, she had detected signs that the Individual had been abusing alcohol and recognized that the Individual has an alcohol issue, although has not observed those signs recently. Tr. at 99, 102–103. She had not noticed that the Individual’s work

had been affected by alcohol issues, nor had she observed any defects in the Individual's reliability, trustworthiness, stability, judgment, or ability to control her impulses. Tr. at 99–100.

The Mother testified at the hearing that she had observed changes in her daughter since the IOP. Tr. at 112. She stated that the Individual's mood is "much more stable" and the Individual is now optimistic and "really thankful for that she's making these changes." Tr. at 112. She testified that she is proud of her daughter for remaining sober for "quite some time." Tr. at 112. She reported that the Individual is making new friends and looking forward to the future. Tr. at 112. She believes that the Individual is "absolutely committed" to her sobriety and is impressed by her change of attitude and commitment to changing. Tr. at 113. She stated that the last time she observed her daughter using alcohol was Christmas. Tr. at 115. The Individual told her that she planned to stop using alcohol and to remain sober in the future. Tr. at 116–117.

The CPGSW testified at the hearing that he is a certified peer group support worker. Tr. at 123. He testified that for the past four or five months, the Individual has been attending a SR group that he runs on a weekly basis. Tr. at 124. He explained that "SMART Recovery exists to help people manage difficult behaviors that affect their lives, specifically substance and alcohol abuse." Tr. at 124. He further reported that SR also addresses other problematic behaviors including anger management and teaches DBT and Cognitive Behavioral skills. Tr. at 124–125. The CPGSW testified that the SR group also provides a community, a sense of belonging, and social events. Tr. at 125. The CPGSW testified that the Individual regularly attends SR meetings, is engaged in the group, is "very insightful," and is "a very solid member of the group." Tr. at 125–126. The CPGSW testified that the Individual has followed his recommendations. Tr. at 126. The CPGSW further stated:

[The Individual is] a very genuine person, you know, and she has genuinely participated in the group. You know, she hasn't been shy about the difficulties she's experienced, and I believe that she's made a very real effort to work through those and seek advice and help in dealing with those, and that, you know, she plans to continue participating in the group regardless of how this hearing goes or what happens.

Tr. at 126–127. The CPGSW testified that he believes that the Individual has been sober since she joined the group and has not relapsed during this period. Tr. at 128.

The Individual testified at the hearing that her last use of alcohol occurred on March 17, 2023. Tr. at 135, 139, 158. She further testified that she stopped using alcohol because "it became clear that other people were recognizing I may have an issue." Tr. at 132. She also indicated that she realized that her alcohol use would interfere with her goal of obtaining a security clearance. Tr. at 132. When the Individual was asked about her future intentions concerning alcohol she replied: "Currently I have no intention to drink again." Tr. at 135–136. She testified that it has not been difficult for her to stop drinking. Tr. at 137. She reported that she has been taking monthly PETH tests since April 7, 2023, and that each of these tests have been negative, except the first test. Tr. at 137–138. She also reported that she underwent weekly random urinary analysis during her IOP and that each of those tests were negative. Tr. at 139–140. She reported that she attended the IOP for 12 weeks beginning on April 10, 2023, and that she did not miss any of the scheduled IOP

sessions. Tr. at 141–143. She testified that she has been taking her medications as prescribed and intends to continue taking her medications as long as they are recommended by the Psychiatrist or another professional. Tr. at 144. She intends to continue seeing a psychiatrist to monitor her medications as long as it is recommended. Tr. at 144. She testified that she continues to participate in the IOP’s aftercare program. Tr. at 144–145. She testified that she began attending the SR on March 21, 2023, and attends SR meetings on a weekly basis. Tr. at 146–147. She also testified that she has been receiving DBT since May 17, 2023, and has also been receiving individual therapy. Tr. at 148–149, 151. When the Individual was asked what she had learned from her therapies she stated:

So I think I mentioned earlier a good majority of coping with emotions is identifying the triggers and the cravings. So what we try to do is be mindful of that, be present. We try to recognize cognitive distortions that we may be having. We practice outreach to the groups. As I said for IOP, we are expected to keep in constant communication with each other. We practice -- I mentioned also journaling, as well as thought reframing. There's just a lot of skills that we use. All of the places I'm attending but in particular my IOP group focuses a lot on healthy habits, such as exercising, eating a nutritional diet. They encourage things like gardening. That's one of the peer work -- peer support activities that's available to us in -- in IOP in particular. Also, I am involved in an ongoing group text chat. There's 17 people involved in that chat, and we talk all day every day.

Tr. at 151–152. The Individual testified that her therapy groups provide her with “a sense of community” and people she can rely on to support her recovery. Tr. at 152–153. She described her sobriety as “a really positive, uplifting thing” noting that she can see the difference it has made in her life, improving her health and relationships. Tr. at 153–154. She testified that she no longer experiences angry outbursts, takes different approaches to disagreements, and is now better able to take things in stride and accept disappointments. Tr. at 154. She feels she can put more time between a thought or emotion and an action and that she now has more control over “what the action is.” Tr. at 155. She testified that she has been able to manage stressful events in her life, including the present proceeding, without resorting to alcohol use or other unhealthy behaviors. Tr. at 156. She described the present proceeding as “a blessing in disguise” and “the ultimate opportunity for growth.” Tr. at 157. She further testified “I’ve gained a lot of self-confidence and healthy relationships, deepened relationships.” Tr. at 157. She described the Psychologist’s report as “a wake-up call” and “a call to action.” Tr. at 158. She reported that she had been previously diagnosed with BPD but indicated that she did not believe that she was still exhibiting symptoms at the time of the CI. Tr. at 159. She attributes her recovery to treatment, therapy, medication, and abstinence from alcohol. Tr. at 159–160. The Individual acknowledged that she had stopped using alcohol in the past and then returned to problematic alcohol use on several occasions. Tr. at 160. She opined that this time is different because “I received professional help.” Tr. at 160. She testified that she has prepared a relapse prevention plan. Tr. at 161.

The Psychologist testified at the hearing after observing the testimony of each of the other witnesses. She testified that she had reviewed each of the exhibits submitted by the Individual prior to the hearing. Tr. at 166. The Psychologist testified that the Individual’s AUD, Severe is now in “early remission” since she has been in remission for more than three months but less than

12 months. Tr. at 169. The Psychologist testified that the Individual “certainly done a great job at putting forth effort into getting treatment.” Tr. at 170. The Psychologist further noted that the Individual has “made the appropriate steps to receive the treatment that she needs.” Tr. at 170. The Psychologist testified that it was significant that this is the first time that the Individual has received professional help to address her AUD, which means that she is more likely to succeed than in her prior attempts. Tr. at 182. The Psychologist further opined that “with an alcohol use disorder, especially something with that severity . . . the longer someone has to demonstrate sobriety, the more confident I become.” Tr. at 170. The Psychologist testified that the Individual has fully complied with her treatment recommendations, except not for the full year that she had recommended. Tr. at 170. She further opined that the Individual’s BPD “is leading into what we would consider remission.” Tr. at 171. The Psychologist opined that it’s too early in the Individual’s treatment for BPD to conclude that she is in full remission, although she is “fully on the right track.” Tr. at 172–173. The Psychologist further testified that the Individual still needs to demonstrate that she can function appropriately over time, even though she currently “has been doing really well” and “is heading in the right direction.” Tr. at 172–173. The Psychologist further opined that the Individual is in early remission from her BPD since she has been in remission for more than three months but less than 12 months. Tr. at 174–175. The Psychologist noted that resolving the Individual’s AUD would be very helpful in addressing her MDD and BPD. Tr. at 174. The Psychologist noted that the risk of relapse decreases significantly over time. Tr. at 175. However, the Psychologist opined that the Individual’s prognosis for BPD is “good,” and her prognosis for AUD is “positive.” Tr. at 175. The Psychologist opined that there is not adequate evidence of rehabilitation for the Individual’s AUD, although the Individual is currently on the right path. Tr. at 177. The Psychologist was not willing to opine on whether the Individual is in remission from her MDD. Tr. at 178. The Psychologist expressed some concern about the Individual’s truthfulness during the CI, which concerned her because her lack of candor was a symptom of BPD. Tr. at 179.

V. Analysis

The derogatory information in the record raised especially significant doubts about the Individual’s judgement, reliability, trustworthiness, and stability. The Individual has a notable history of recurrent criminal conduct which includes several violent incidents. Moreover, at least three mental health professionals have diagnosed the Individual with BPD, including the Psychologist whose report carefully documents the factual basis for that conclusion and provides a well-reasoned explanation for her conclusion that the Individual met the DSM-5-TR criteria for BPD at the time of the CI. While the Psychiatrist testified that he did not observe any signs of BPD when he met with the Individual, he did not directly dispute the Psychologist’s conclusion that the Individual met the DSM-5-TR criteria for BPD and MDD. Both the Psychiatrist and the Psychologist agree that the Individual met the DSM-5-TR criteria for AUD and that she is currently in early remission from her AUD. The Individual did not present any compelling testimony indicating that the Psychologist erred in concluding that the Individual’s AUD was severe.

In the six months since the Individual received and read the Psychologist’s report, the Individual has made impressive progress. She has been abstaining from alcohol use as evidenced by her five negative PEth tests and her 10 valid negative urinalysis tests as well as the testimony of her and her Boyfriend. The Individual has completed the IOP and is attending aftercare. She has also

become an active and engaged member of her SR group, which along with her Mother, her Boyfriend, the Psychiatrist and other mental health professionals, provide the Individual with a strong support network. The Individual has also begun pharmaceutical therapy which appears to be highly effective. I was impressed with the Individual's hearing testimony and the poise she exhibited during the hearing. The evidence in the record has accordingly convinced me that the Individual will stay in remission, as long as she continues to (1) abstain from alcohol use, (2) comply with the medication regime recommended by her Psychiatrist, (3) stay engaged in her SR group, (4) attend aftercare, (5) attend individual therapy, (6) attend DBT, and (7) adhere to her treatment team's recommendations, her AUD, BPD, and MDD. However, I am similarly convinced that if the Individual were to discontinue these activities, as she has repeatedly done in the past, these conditions would very likely become active once again. Since the Individual has only been abstaining from alcohol use and receiving the appropriate treatment for six months, I am not convinced that the Individual has demonstrated a sufficiently clear and established pattern of compliance with her mental health treatment and abstinence from alcohol use to resolve the security concerns raised in the SSC. In reaching this conclusion, I have taken into account the Individual's significant history of unilaterally discontinuing her mental health treatment and returning to problematic alcohol use after a period of abstaining from alcohol use. Moreover, as recently as January 8, 2023, the Individual was involved in an incident in which she threw a bottle at her boyfriend's house and tried to enter his home against his wishes. This incident drew the attention of the police, and occurred while the Individual was under the influence of alcohol. This incident was a continuation of her historic patterns of inappropriate behavior towards a boyfriend and problematic alcohol use. Moreover, the Individual continued to use alcohol as recently as March 17, 2023, and was at times, less than candid during her January 13, 2023, CI, indicating that her judgment, reliability, and trustworthiness were impaired in January 2023.³

A. Guideline G

The Adjudicative Guidelines set forth four factors that may mitigate security concerns under Guideline G. First, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if they can show "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." Adjudicative Guidelines at ¶ 23(a). In the present case, the Individual last consumed alcohol less than six months before the hearing, which is not a sufficient period to demonstrate that her AUD has been resolved and that her alcohol consumption is unlikely to recur. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(a).

Second, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if "[t]he 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." Adjudicative Guidelines at ¶ 23(b). In the present case, the Individual has acknowledged her AUD and has provided evidence of actions taken to overcome this problem.

³ For the most part, the Individual was very forthcoming during the CI. However, she clearly minimized her recent alcohol consumption, failed to disclose that alcohol was a factor in the January 8, 2023, incident, and failed to disclose that she had thrown a bottle during that incident.

However, as attested to by the Psychologist, a six-month period of abstinence is not sufficient for the Individual to have demonstrated a clear and established pattern of abstinence from alcohol. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(b).

Third, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if “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.” Adjudicative Guidelines at ¶ 23(c). In the present case, the Individual is participating in a treatment program to address her AUD, as recommended by the Psychologist. While she has previously relapsed, those relapses did not occur after treatment. However, because the Individual’s last use of alcohol was relatively recent, it is too early in the course of her treatment to determine whether she has shown satisfactory progress. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(c).

Fourth, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if “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(d). As noted above, while the Individual has successfully completed a treatment program, she has not yet sufficiently established a pattern of abstinence from alcohol, given that she has only been abstaining for six months. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(d).

I therefore find that the security concerns raised by the LSO under Guideline G have not been resolved.

B. Guideline I

The Adjudicative Guidelines set forth five factors that may mitigate security concerns under Guideline I. First, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I if they can show that “the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan.” Adjudicative Guidelines at ¶ 29(a). While the Individual’s BPD and MDD are controllable with treatment, the Individual has not yet demonstrated sufficient ongoing and *consistent* compliance with her treatment plan given her significant history of repeated non-compliance with treatment plans. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(a).

Second, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I “if 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.” Adjudicative Guidelines at ¶ 29(b). While the Individual’s BPD and MDD are amenable to treatment, and the Individual is currently receiving effective treatment, the Psychologist was not willing to provide a prognosis for the Individual’s MDD and further opined that while the Individual’s prognosis is “good,” it’s still too early in the Individual’s treatment for BPD to conclude that she is in full

remission. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(b).

Third, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I if a “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.” Adjudicative Guidelines at ¶ 29(c). In the present case, a duly qualified mental health professional, the Psychologist, found that the Individual’s BPD was in early remission. However, the Psychologist did not find that the Individual’s BPD or MDD had a sufficiently low probability of recurrence. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(c).

Fourth, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I if “the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indication of emotional instability.” Adjudicative Guidelines at ¶ 29(d). The evidence in the record indicates that the Individual’s BPD and MDD have been long term concerns for the Individual and were therefore not temporary. As I have discussed above, while the Individual’s recent treatment has been highly effective, her history of non-compliance with treatment and the relatively short duration of her present success prevents me from concluding that the situation has been resolved. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(d).

Fifth, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I if “there is no indication of a current problem.” Adjudicative Guidelines at ¶ 29(e). As I have discussed above, the recency of the problematic behaviors that are symptomatic of the Individual’s BPD and MDD indicate that the Individual’s problem is still current. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(e).

I therefore find that the Individual has not provided adequate evidence of rehabilitation or reformation to mitigate and resolve the security concerns raised under Guideline I.

C. Guideline J

The Individual’s criminal activity is clearly symptomatic of her AUD, BPD, and MDD. Because the Individual has not yet shown that her recovery from these disorders can be sustained, I remain concerned that there is an unacceptable risk that the Individual will engage in future criminal activity.

The Adjudicative Guidelines set forth four conditions that can mitigate security concerns arising under Guideline J, two of which are relevant to the present case.⁴ First, an individual may mitigate

⁴ Two of the conditions do not apply to the present case. Adjudicative Guideline ¶ 32(b) provides for mitigation when an individual can show that they were “pressured or coerced into committing the act and those pressures are no longer present in the person’s life.” Adjudicative Guidelines at ¶ 32(b). In the present case, the Individual does not contend that she was pressured or coerced into engaging in her criminal activity. Adjudicative Guidelines ¶ 32(c) provides for

security concerns under Guideline J if they can show that “so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.” Adjudicative Guidelines at ¶ 32(a). In the present case, approximately nine months have elapsed since the last occurrence of a long-term pattern of the Individual’s criminal activity. Since she has not yet shown that the conditions which are the root causes of her criminal activity are permanently resolved, I cannot find that her criminal activity is unlikely to recur. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 32(a).

Second, an individual may also mitigate security concerns under Guideline J if “[t]here is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.” Adjudicative Guidelines at ¶ 32(d). In the present case, rehabilitation would need to be in the form of rehabilitation from her AUD, BPD, and MDD. As discussed above, the Individual has not yet shown that she is rehabilitated from these disorders. Accordingly, the Individual has not shown that the mitigating conditions set forth in ¶ 32(d) are present.

I therefore find that the security concerns raised under Guideline J by the Individual’s criminal activity have not been resolved.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G, I, and J. After considering all of the evidence, both favorable and unfavorable, in a commonsense manner, I find that the Individual has not mitigated the security concerns raised under Guidelines G, I, and J. Accordingly, the Individual has not demonstrated that granting her security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, the Individual’s security clearance should not be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine
Administrative Judge
Office of Hearings and Appeals

mitigation when an individual is able to show that no reliable evidence shows that they engaged in the alleged criminal activity. In the present case, the Individual does not deny the criminal activity cited in the SSC.