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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: September 17, 2024 )  
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Case No.: PSH-24-0193

Issued: February 7, 2025

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**Administrative Judge Decision**

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Noorassa A. Rahimzadeh, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (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."<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's access authorization should not be granted.

**I. Background**

In August 2023, the Individual submitted a Questionnaire for National Security Positions (QNSP) in connection with seeking access authorization. Exhibit (Ex.) 8.<sup>2</sup> When asked in the QNSP whether he had "failed to file or pay Federal, state, or other taxes when required by law or ordinance" in the last seven years, the Individual marked "yes." *Id.* at 114. He indicated that due to a "[w]orkplace injury," confusion over how to file a 1099 tax form for reporting income, and the passing of the filing deadline, he failed to file his federal income taxes for years 2017 and 2018. *Id.* at 114–15. He did not indicate that he owed an outstanding amount in unpaid income taxes for the aforementioned tax years. *Id.*

As part of the investigation process, the Individual underwent an Enhanced Subject Interview (ESI), which was conducted by an investigator in November 2023. Ex. 9 at 180. The Individual

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<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.

confirmed for the investigator that he failed to file his federal income taxes for tax years 2017 and 2018, but he stated his intention to file his taxes in the future. *Id.* at 183.

The Individual also told the investigator that in 2022, he “took [two] weeks off from work and began drinking heavily,” after his girlfriend left him. *Id.* at 182. The Individual stated that “he consumed 750 milliliter[s] of alcohol on a daily basis.” *Id.* He ultimately concluded that his alcohol consumption had become a problem, and accordingly, he enrolled in an outpatient treatment program (OP). *Id.* The Individual told the investigator that to the best of his knowledge, he had not been “diagnosed with any conditions . . . includ[ing] alcohol dependency.” *Id.* At the time of the November 2023 ESI, the Individual’s reported alcohol consumption consisted of approximately two to three beers, two to three nights per week. *Id.* He also told the investigator that “he gets intoxicated once a week when he consumes [three] to [four] cocktails at home or” at a bar. *Id.* The Individual indicated that he “has no plans to stop drinking alcohol[,]” but did state that he intends to reduce his overall consumption. *Id.*

Following the ESI, the Local Security Office (LSO) asked the Individual to complete a Letter of Interrogatory (LOI), which the Individual signed and submitted in May 2024. Ex. 5. The Individual revealed in the LOI response that he still had not filed his federal income taxes for tax years 2017 and 2018, that he also failed to file his state income taxes for the aforementioned years, and that he owed approximately \$545.38 to the IRS. *Id.* at 32. The Individual also noted that he owed approximately \$1,116.15 in state income taxes for tax year 2022, and that he intended to enter a payment plan to avoid any garnishment of his income by the state tax authority. *Id.* at 33.

As questions still remained regarding the Individual’s alcohol consumption, the Individual was asked to see a DOE-consultant psychologist (DOE Psychologist) for a psychological evaluation, which was conducted in June 2024. Ex. 6. The Individual submitted to a Phosphatidylethanol (PEth) test in connection with the evaluation, which yielded a result of 1060 ng/mL.<sup>3</sup> *Id.* at 53. The DOE Psychologist issued a report (the Report) of her findings and conclusions in early July 2024. *Id.* In the Report, the DOE Psychologist stated that the Individual met sufficient criteria for a diagnosis of Alcohol Use Disorder (AUD), Severe, as outlined in the *Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition-Text Revision* (DSM-5-TR). *Id.* at 54. She went on to indicate that the Individual had not shown adequate evidence of rehabilitation or reformation. *Id.* Finally, she also determined that the Individual “has clinically significant anxiety with poor emotional regulation and distress tolerance, which exacerbates his excessive alcohol use leading to impaired judgment, stability, reliability, and trustworthiness.” *Id.*

The LSO began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created a substantial doubt regarding his eligibility for access authorization. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guidelines F (Financial Considerations), G (Alcohol Consumption), and I (Psychological Conditions) of the Adjudicative Guidelines. Ex. 1. The

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<sup>3</sup> “PEth can only be detected when consumed ethyl alcohol reacts with a compound in the Red Blood Cell Membrane (RBC).” Ex. 6 at 53. PEth accumulates in the RBC “with repeated drinking episodes” and can “be detected in the blood for about [twenty-eight] days after alcohol consumption has ceased.” *Id.* A “cutoff” of 20 ng/mL indicates “moderate to heavy” alcohol consumption. *Id.*

Notification Letter informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf and presented the testimony of a friend, a former foreman, and his current workplace lead. *See* Transcript of Hearing, OHA Case No. PSH-24-0193 (hereinafter cited as "Tr."). The Individual also submitted five exhibits, marked Exhibits A through E. The DOE Counsel submitted nine exhibits marked as Exhibits 1 through 9 and presented the testimony of the DOE Psychologist.

## **II. Notification Letter**

### **Guideline F**

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE raised security concerns under Guideline F of the Adjudicative Guidelines. Guideline F provides that failure to live within one's means, satisfy debts, and meet financial obligations "may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines at ¶ 18. Among those conditions set forth in the Adjudicative Guidelines that could raise disqualifying security concerns is the "failure to file . . . annual Federal, state, or local income tax returns or failure to pay Federal, state, or local income tax as required[.]" *Id.* at ¶ 19(f). Under Guideline F, the LSO alleged that the Individual failed to file his federal and state income taxes for tax years 2017 and 2018. Ex. 1 at 5. The LSO also alleged that the Individual owes approximately \$545.38 to the IRS for tax year 2022, and \$1,116.15 to the state tax authority for tax year 2022. *Id.* The LSO's invocation of Guideline F is justified.

### **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 is "diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder[.]" *Id.* at ¶ 22(d). Under Guideline G, the LSO alleged that the Individual's PEth test results indicated that the Individual "consumed alcohol heavily and frequently," and further, that the DOE Psychologist diagnosed the Individual with AUD, Severe, without adequate evidence of rehabilitation or reformation.<sup>4</sup> Ex. 1 at 5–6. The LSO's invocation of Guideline G is justified.

### **Guideline I**

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<sup>4</sup> The PEth test result does not constitute a security concern in and of itself. Rather, the test result is being presented in support of the stated security concern, the AUD diagnosis.

Under Guideline I, “[c]ertain emotional, mental, and personality conditions can impair one’s judgment, reliability, or trustworthiness.” Adjudicative Guidelines at ¶ 27. Conditions that could raise a security concern and may be disqualifying include “[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness[.]” *Id.* at ¶ 28(b). Under Guideline I, the LSO alleged that the DOE Psychologist concluded in the Report that the Individual “has clinically significant anxiety with poor emotional regulation and distress tolerance, which exacerbates his excessive alcohol use, leading to impaired judgment, stability, reliability, and trustworthiness.” Ex. 1 at 6. The LSO’s invocation of Guideline I is justified.

### **III. Regulatory Standards**

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all 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 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 and Hearing Testimony**

Regarding his past alcohol consumption, the Individual began consuming alcohol “at a problematic level around the age of [nineteen].” Tr. at 70–71. When his problematic consumption began, the Individual was drinking about seventy drinks per week, averaging about ten to twelve drinks per sitting. *Id.* at 71–72. This rate of consumption lasted for about one year. *Id.* at 72. After that one year, his consumption reduced. *Id.* He indicated in the LOI response and in his testimony that “beginning in [March] 2020 with the Covid[-19] [p]andemic until 2023[.]” he “drank more heavily” and on a daily basis. Ex. 5 at 35; Tr. at 73. He indicated that during this period, he would consume “[t]hree to five drinks per occasion[.]” and he would drink to intoxication approximately “[t]wice per week.” Ex. 5 at 35. He stated in his LOI response that his alcohol consumption was at its heaviest from January 2022 to March 2023, when he would drink liquor on a daily basis and drink to intoxication “[m]ultiple times per week.” *Id.* at 36. The Individual told the DOE Psychologist that when his consumption increased, he was consuming more alcohol than he

intended, that he had “built up a tolerance[,]” and that he had “spent a great deal of time drinking and recovering from the effects” of alcohol. Ex. 6 at 50. The Individual “experienced withdrawal symptoms” and “tried multiple times to stop drinking altogether[,]” but was ultimately unsuccessful. *Id.* The Individual could not remain abstinent for longer than one month at a time and continued to drink despite receiving medical advice urging him to stop drinking alcohol. *Id.*; Tr. at 100. The Individual also indicated in the LOI response that he last consumed to intoxication a week prior to the submission of the LOI response, when he consumed seven drinks. Ex. 5 at 34, 36–37.

The Individual sought treatment via an OP for his alcohol consumption and “anger, anxiety, and depression[,]” in October 2022, and received individual counseling in the OP continuously through the date of the hearing. Ex. 5 at 38; Ex. 6 at 50; Ex. A at 1. Although it was recommended that he seek treatment in February 2022, he did not start treatment until October 2022, after his girlfriend left him and “after an increase in depressive symptoms, including drinking[,]” Ex. at 6 at 50; Tr. at 80, 99. The OP consists of one-on-one counseling sessions with two different providers. Tr. at 80. The Individual also attended weekly group counseling sessions for between at least six months and one year<sup>5</sup>. Ex. 5 at 39; Tr. at 80, 106; Ex. A at 1. The one-on-one counseling sessions were initially biweekly. Tr. at 80; Ex. 5 at 42; Ex. A at 1; Ex. B at 1. These one-on-one sessions are designed to focus on cognitive behavioral therapy, grief counseling, the Individual’s alcohol consumption, and techniques for handling difficult interactions.<sup>6</sup> Tr. at 81, 84–85. Group counseling “focused on emotional regulation and distress tolerance skills[,] as well as chemical dependency treatment[,]” which benefitted the Individual, as “intensely distressing emotions triggered excessive drinking” in the Individual. Ex. 6 at 50. Although the Individual has received alcohol education through the OP, the Individual “remained ambivalent about both abstinence and harm reduction[,]” *Id.* The Individual denied ever receiving an alcohol or substance related diagnosis but admitted that he had taken medication specifically for his alcohol consumption from November 2022 to March 2023.<sup>7</sup> Ex. 5 at 39; Tr. at 81–82. He admitted to the DOE Psychologist that one of his one-on-one providers had previously urged him to stop consuming alcohol. Ex. 6

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<sup>5</sup> The Individual provided inconsistent accounts of the timeline of his treatment. As stated above, the Individual began group sessions, via the OP, in October 2022. The Report notes that at the time of the psychological evaluation in June 2024, the Individual “was still attending the chemical dependency support group but was going less frequently, down from once a week to once a month currently.” Ex. 6 at 52.

<sup>6</sup> The Individual testified that his one-on-one counseling also helps him work through his depression-related issues. Tr. at 90–91. He indicated that he was prescribed medication for his anxiety and/or sadness, but he chose not to take it, as he felt that the amount of time he was required to take the medication was “way too much commitment for [him].” *Id.* at 91–92. Also, he feels that his symptoms have improved. *Id.* at 92. He also attended all permitted sessions with an Employee Assistance Program (EAP) counselor for the purpose of discussing depression. Tr. at 110. The Individual reported that he found the EAP sessions to be helpful but could not remember when he attended. *Id.* at 110–11.

<sup>7</sup> Although his cravings were reduced, the Individual continued to consume alcohol while taking this medication, averaging “four to six” drinks per week. Ex. 6 at 50; Tr. at 82. He also stopped taking medication for his alcohol consumption because “[i]t did not seem as effective as [he] wanted it to be.” Tr. at 82–83, 101; Ex. 6 at 52. He denied receiving any instruction to stop drinking while on this medication. Tr. at 100.

at 51. He also told the DOE Psychologist that his current diagnosis is Major Depressive Disorder, Severe, in Full Remission.<sup>8</sup> *Id.* at 52.

The DOE Psychologist diagnosed the Individual with AUD, Severe, and noted that the Individual stated during the clinical evaluation that “he has a drinking problem these days.” *Id.* at 52. He voiced his desire to reduce his overall alcohol consumption, and his intention to stop consuming alcohol for one month to “see how it goes.” *Id.* At the time of the psychological evaluation, the Individual was attending “chemical dependency support group” sessions once a month. *Id.* The Individual explained that “listening to people talk about their problems with alcohol made him want to drink more.” *Id.* This feeling was replicated when he attended several Alcoholics Anonymous (AA) meetings. *Id.* at 53; Tr. at 108–09. He did, however, complete Step Three of AA’s Twelve Steps without the assistance of a sponsor. Tr. at 109.

The DOE Psychologist indicated that in order for the Individual to show adequate evidence of rehabilitation or reformation, he should “enter an inpatient chemical dependency treatment program with the goal of” abstaining from alcohol. Ex. 6 at 55. Because of the amount of alcohol the Individual is consuming, “he will likely need supervised detoxification to prevent the serious adverse effects of alcohol withdrawal.” *Id.* The inpatient chemical dependency treatment should last three months, and upon his completion of the program, he should enter an intensive outpatient treatment program (IOP) for “six to nine months.” *Id.* The Individual should also remain abstinent from alcohol for a minimum of twelve months, and his abstinence should be evidenced by negative monthly PEth tests.<sup>9</sup> *Id.*

Finally, the DOE Psychologist concluded that the Individual “has clinically significant anxiety with poor emotional regulation and distress tolerance, which exacerbates his excessive alcohol use leading to impaired judgment, stability, reliability and trustworthiness.”<sup>10</sup> *Id.* at 55. She opined that the Individual would glean some benefit from “psychotherapeutic treatment to build mindfulness, emotional regulation, and distress tolerance skills integrated with the above-recommended chemical dependency treatment.” *Id.*

Testimony from the Individual began with information pertaining to his financial state. The Individual submitted an IRS tax transcript for tax year 2022, which indicates that in late August 2024, the Individual made a payment of \$571.06 to the IRS, bringing his outstanding account balance to \$0. Ex. E at 2. The Individual also submitted a June 2024 letter indicating that the state tax authority accepted the Individual’s request for an installment agreement pursuant to which he is to pay \$50 monthly to resolve the outstanding amount he owes in state income taxes. Ex. C. According to the document, the first electronic transfer was scheduled for August 2024. *Id.* The

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<sup>8</sup> In his May 2024 LOI response, the Individual indicated that his symptoms include “[d]epressive thoughts” and “lack of motivation,” and that he experiences these symptoms twice a week on average. Ex. 5 at 42. He submitted a January 2025 letter from one of his one-on-one providers, which indicates that “since starting treatment[.]” the Individual is “no longer indicating significant symptoms of depression and anxiety.” Ex. A at 1.

<sup>9</sup> The DOE Psychologist observed that individuals with alcohol use at the level of the Individual’s should endeavor to remain abstinent for the rest of their lives. Ex. 6 at 55.

<sup>10</sup> At the hearing, the DOE Psychologist testified that she was not entirely sure whether the anxiety disorder was alcohol-induced, or if it was some “other specified anxiety disorder[.]” Tr. at 125.

Individual testified that he is making the agreed-upon payments and is now paying more than the agreed-upon amount every month. Tr. at 68–69. Regarding the outstanding amount owed to the state tax authority, the Individual testified that he was working in the state and “[w]hen [he] went to change [his] residency to [the state], the state [tax agency] determined that [he] owed them money.” *Id.* at 68. The Individual testified that he was as a result “caught off guard.” *Id.*

The Individual also testified that he did not meet the minimum income threshold requirements for tax years 2017 and 2018. *Id.* at 60. Regarding his federal and state income taxes for tax years 2017 and 2018, the Individual provided an August 2024 letter from a certified public accountant who indicated that pursuant to the Individual’s IRS wage and income transcripts, the Individual grossed \$3,701 in 2017 and \$4,750 in 2018. Ex. A at 1, 3, 5. Accordingly, as the Individual was filing “single” and under the age of 65 in 2017, he was not required to file his 2017 income taxes pursuant to IRS Publication 501, as he earned less than the threshold amount of \$10,400. *Id.* at 2. Similarly, he was not required to file his 2018 federal income taxes because he earned less than the threshold amount of \$12,000, filing “single” and under the age of 65. *Id.* at 4. The Individual also submitted official instructions published by the state tax authority regarding individual income taxes. Ex. D. Pursuant to the instructions provided for tax years 2017 and 2018, the Individual was not required to file income taxes for either tax year unless his federal gross income exceeded \$8,750. *Id.* at 5, 26.

The Individual admitted in his testimony that he continues to drink “on a pretty much daily basis” but stressed the fact that he does not have any criminal convictions stemming from his consumption. Tr. at 86, 121–22. He noted that he is “doing a lot better[.]” as he has “built a support network,” “sought help,” and “made friends[.]” *Id.* at 86–87. The Individual indicated that he understands why alcohol consumption is a concern, and since reading the Report, he has signed up “for additional support groups” through the OP, the first meeting of which was scheduled in the days following the hearing. *Id.* at 87–89. He intends to continue seeking support, as “an incremental approach has been beneficial” to him. *Id.* at 88. Ultimately, his “plan is to only have two drinks a week[.]” and in his testimony, he claimed to be currently averaging seven drinks per week. *Id.* at 88–89. The last time he admitted to becoming intoxicated was Christmas Eve, which was about one month prior to the hearing. *Id.* at 93. He estimated that from June 2024 to the date of the hearing, he was consuming to intoxication about once per month, which is a decrease, as he was “drinking to intoxication almost every day” at the start of 2024. *Id.* at 111–12. He clarified that at the time he met with the DOE Psychologist, he was consuming “about a pint of liquor a day[.]” *Id.* at 112–13. He also made clear that while he stopped attending the OP group sessions that he began attending in October 2022, he was still attending one-on-one therapy sessions with the same providers he began seeing in October 2022. *Id.* at 106. The Individual has since reduced the frequency of the sessions he has with the providers, and now receives one-on-one therapy every four to six weeks. *Id.* at 80.

The DOE Psychologist testified that the Individual’s problematic alcohol consumption has “been present for a long period of time[.]” dating back to the time he was consuming alcohol as a teenager. *Id.* at 128. She also opined that the Individual’s anxiety was making it difficult for him to tolerate stress and regulate his emotions, causing “interaction between the emotional symptoms and the drinking behavior.” *Id.* at 130. Accordingly, the Individual “had poor control over his drinking behavior[.]” and he was “us[ing] drinking to escape from negative mood states.” *Id.* She

explained that alcohol consumption actually increased symptoms of anxiety and depression, prompting the Individual to consume more alcohol. *Id.* at 131. She concluded that at the time of the hearing, the Individual still suffered from AUD, Severe, and although she could not determine whether the Individual “fully meets criteria for anxiety disorder DSM level[.]” his “problematic symptoms of anxiety and emotional dysregulation and problems with distress tolerance.” *Id.* at 143. Her prognosis for the Individual, should he continue to drink alcohol, was “poor to guarded[.]” and she concluded that he had not shown adequate evidence of rehabilitation or reformation. *Id.*

The Individual’s friend of approximately two years testified that she currently sees the Individual in a social context about two or three times per month, and during those visits, she has seen the Individual consume “a couple of drinks[.]” *Id.* at 13–16. Although she has “never seen [the Individual] sloppy drunk or belligerent,” she has had some concerns over the Individual’s alcohol consumption, primarily regarding how high the Individual’s tolerance is. *Id.* at 16. The Individual had also told her about his breakup and the subsequent increase in his alcohol consumption, but she believes that his consumption is now “a bit better[.]” *Id.* at 16, 18. In their conversations, the Individual has told her that he consumes “a cocktail in the evening after work most days.” *Id.* at 18. She considers herself to be part of his support system. *Id.* at 19.

The Individual’s former foreman testified that he has known the Individual since 2008 and stated that he considers himself to be “very close” to the Individual. *Id.* at 23–24, 26. Following the Individual’s breakup, the Individual sought consolation and comfort from his former foreman. *Id.* at 27–29. He remembers the Individual “drinking heavily” at that time, as “it was hard for him to cope with the loss.” *Id.* at 28. During that period, the Individual would have “cry session[s]” with the former foreman on Friday nights while they consumed approximately a fifth of vodka together. *Id.* at 29. This lasted “for the better part of a month” until the Individual visited without a bottle of vodka, as he had decided that he “needed to change something.” *Id.* The Individual’s former foreman testified that based on his knowledge, the Individual’s alcohol consumption decreased from that day forward. *Id.* at 29–30. He did recount that the Individual was disciplined by his employer during the aforementioned month of drinking, as he was reporting to work late with the odor of alcohol about him. *Id.* at 31. The former foreman was concerned by the Individual’s alcohol consumption during that month, but his concern dissipated after the Individual reduced his consumption. *Id.* at 32–33, 35.

The Individual’s current workplace lead, who began working with the Individual in 2024, testified that in early 2024, the Individual was taking sick leave and reporting to work late, causing him some concern. *Id.* at 45, 47–48. When he addressed the matter with the Individual, he learned about the Individual’s 2022 breakup and how “distracted” the Individual remained over the matter. *Id.* at 45–46. The Individual’s lead offered the Individual some help, as the Individual’s behavior was “a little bit erratic” at that time. *Id.* at 46. He indicated that the Individual has since changed, and he is not the “same person that he was for the first eight or ten months that [the witness] knew him.” *Id.* at 47. The Individual began changing his behavior in mid-2024, as he seemed to be in a better frame of mind and was coming to work on time. *Id.* at 49. The Individual’s lead does not have any concerns about the Individual’s alcohol use. *Id.* at 51.

## V. Analysis



## Guideline F

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline F include:

- (a) The behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) The conditions that resulted in the financial problem were largely beyond the person's control (*e.g.*, loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) The individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) The individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (e) The individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- (f) The affluence resulted from a legal source of income; and
- (g) The individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Adjudicative Guidelines at ¶ 20.

Regarding the matter of the Individual's federal and state income taxes for tax years 2017 and 2018, it is clear that the Individual did not meet the minimum income threshold to necessitate the filing of income taxes for the aforementioned tax years. The Adjudicative Guidelines specifically indicate that the failure to file or pay annual Federal or state income tax *as required* could raise a security concern. Here, the Individual was not required to file federal or state income taxes for tax years 2017 and 2018. Accordingly, the conduct, as it specifically relates to the matter of the Individual's unfiled federal and state income taxes for tax years 2017 and 2018, does not present a security concern under Guideline F.

Regarding the concern that the Individual owes the IRS an outstanding balance for tax year 2022, the Individual submitted an IRS tax transcript that indicates the outstanding amount was satisfied

in full in August 2024, bringing the account balance to \$0. Accordingly, the Individual has mitigated this stated concern pursuant to mitigating factor (g). However, I cannot conclude the same for the outstanding amount owed to the state tax authority for tax year 2022. While I do have a letter from the state tax authority indicating that the Individual has established a payment plan to satisfy the outstanding debt in increments of \$50 per month, the Individual did not submit any documents indicating that he is actually paying this amount on a monthly basis. Although he testified that he is current with these payments, even paying more than the required \$50, I do not have documentary evidence to corroborate the Individual's testimony. Therefore, while I can conclude that the Individual has made the appropriate arrangements to resolve this debt, I cannot conclude that he is in compliance with those arrangements. Regarding the remainder of the mitigating factors, the debt appears to be ongoing, I cannot conclude that the behavior occurred so long ago, was infrequent, or occurred under such circumstances that it is unlikely to recur. Also, there is nothing in the record to suggest that the conditions surrounding the outstanding amount were beyond the Individual's control. As such, the Individual has failed to mitigate pursuant to factors (a) and (b). There is no information that this issue is amenable to resolution through financial counseling, and although the Individual has engaged in a payment plan, I have no corroborating evidence that the Individual is adhering to the plan. Lastly, there was no dispute regarding the legitimacy of the debt or any allegation of affluence. As such, the Individual has failed to mitigate the stated concern pursuant to mitigating factors (c), (d), (e), and (f).

For the aforementioned reasons, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline F.

### **Guideline G**

The Adjudicative Guidelines provide that 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; and
- (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.

During his testimony, the Individual stressed the fact that he has not, as a result of his alcohol consumption, committed any criminal acts. However, as indicated above, there is no requirement for one to commit a criminal act for a concern to arise under Guideline G. While there is no indication in the record that the Individual has committed any alcohol-related crimes, the record clearly indicates that the Individual has engaged in problematic alcohol consumption for years. He has been told by more than one provider to discontinue consuming alcohol and was prescribed medication to achieve that end. Not only does he continue to drink despite advice to stop, but he drank while taking the aforementioned medication. It is also concerning that the Individual continued drinking throughout treatment, despite being exposed to alcohol education, and the fact that he felt a greater craving for alcohol following group sessions and AA meetings reflects the severity of his AUD diagnosis. The Individual even admitted to the DOE Psychologist that he has a problem with alcohol, and yet, this understanding did not compel him to take the necessary steps to stop drinking. This simply evidences poor judgment. Importantly, the DOE Psychologist concluded that the Individual has not shown adequate evidence of rehabilitation or reformation and that if he continues to drink, his prognosis is poor.

As the Individual still consumes alcohol and he continues to meet the diagnostic criteria for AUD, I cannot conclude that so much time has passed since the problematic behavior took place. I also cannot conclude that the behavior is infrequent or that the behavior took place under unusual circumstances. The fact that the Individual continues to drink following an AUD diagnosis and treatment only casts doubt on his current reliability, trustworthiness, or judgment. The Individual has failed to mitigate the stated concerns pursuant to mitigating factor (a).

While the Individual has voiced his understanding that his alcohol consumption is maladaptive and attended an OP, he has not remained abstinent from alcohol in compliance with recommendations from providers. Accordingly, he has not mitigated the stated concerns pursuant to mitigating factor (b). I also do not have any evidence that the one-on-one therapy sessions the Individual is attending constitute aftercare as contemplated by the OP. This fact taken in conjunction with the fact that he has not remained abstinent from alcohol leads me to the conclusion that he has not mitigated the stated concerns pursuant to mitigating factor (d). Also, while the Individual is receiving one-on-one therapy for, among other things, his maladaptive alcohol use, I have no meaningful information regarding whether he is making any satisfactory progress with regard to his problematic alcohol consumption. In the context of his AUD diagnosis, which is severe, a mere reduction of alcohol consumption is simply not enough to resolve the security concerns, especially when more than one provider has told the Individual that he should stop drinking. I cannot conclude that the Individual has mitigated the stated concerns pursuant to mitigating factor (c).

For the aforementioned reasons, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline G.

## **Guideline I**

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline I include:

- (a) The identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) The individual has voluntarily entered a counseling or treatment program for a condition that is amendable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;
- (c) Recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;
- (d) The past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability;
- (e) There is no indication of a current problem.

Adjudicative Guidelines at ¶ 29.

Based on the information in the record, the Individual has clinically significant anxiety with poor emotional regulation and distress tolerance that continued to the time of the hearing. The record also indicates that the Individual is seeking one-on-one therapy with two different providers, one of whom indicated that the Individual is no longer exhibiting significant symptoms of depression and anxiety. *Supra* note 8. While I give some weight to the information provided in the provider's letter regarding the matter, I did not have the benefit of her testimony and any cross-examination of her as a witness. What I do have is the DOE Psychologist's Report and testimony indicating that the Individual experienced clinically significant anxiety and that the Individual "had poor control over his drinking behavior[.]" and he was "us[ing] drinking to escape from negative mood states." Tr. at 130. There is an interface between the Individual's alcohol consumption and anxiety. While it appears that the Individual continues to seek treatment for his anxiety, he has not stopped drinking alcohol. Without addressing his maladaptive alcohol consumption, it does not appear that his anxiety symptoms, which impact his judgment, reliability, stability, and trustworthiness, will be entirely resolved.

While the letter from the Individual's one-on-one provider indicates that the Individual "has no significant symptoms of depression and anxiety[.]" the letter does not indicate whether the Individual has a treatment plan and whether he is in compliance with the plan. Accordingly, the stated concern has not been mitigating pursuant to mitigating factor (a). Neither the Individual's one-on-one provider nor the DOE Psychologist provided a prognosis specific to the Individual's anxiety diagnosis, and accordingly, the Individual has failed to mitigate the stated concern pursuant to mitigating factor (b). As the DOE Psychologist, the only mental health provider in this case who was approved by and is acceptable to the U.S. Government, did not indicate that the Individual's

anxiety is in remission, the stated concern has not been mitigated pursuant to mitigating factor (c). As the DOE Psychologist testified that the Individual's problematic anxiety symptoms continue and have not been resolved, and because there is no indication that the condition was temporary, the stated concern has not been resolved pursuant to mitigating factors (d) and (e).

For the aforementioned reasons, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline I.

## **VI. Conclusion**

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G, F, and I of the Adjudicative Guidelines. After considering all the evidence, both 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 not brought forth sufficient evidence to resolve the Guideline G, Guideline F, and Guideline I concerns set forth in the SSC. Accordingly, the Individual has not demonstrated that granting his security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, I find that the Individual's access authorization should not be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Noorassa A. Rahimzadeh  
Administrative Judge  
Office of Hearings and Appeals