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

In the Matter of:	Personnel Security Hearing	)	
		)	
Filing Date:	October 3, 2024	)	Case No.: PSH-25-0004
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Issued: February 13, 2025

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**Administrative Judge Decision**

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Diane L. Miles, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*. (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should be restored.

**I. Background**

The Individual is employed by a DOE Contractor, in a position for which he holds a security clearance. In approximately October 2023, the Individual was interviewed by an occupational psychologist (Occupational Psychologist) at his place of employment, as part of an annual Human Reliability Program (HRP) evaluation. Exhibit (Ex.) 5 at 44.<sup>2</sup> Based on information the Individual provided during his HRP evaluation, the Occupational Psychologist concluded the Individual had "difficulties with alcohol and sobered up only for [his HRP] evaluations." Ex. 8 at 62. In May 2024, the Local Security Office (LSO) issued a Letter of Interrogatory (LOI) to the Individual requesting additional details about his alcohol consumption. Ex. 8.

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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 DOE's exhibits were combined and submitted in a single, 162-page PDF workbook. Many of the exhibits are marked with page numbering that is inconsistent with their location in the combined workbook. This Decision will cite to the DOE's exhibits by reference to the exhibit and page number within the combined workbook regardless of any internal pagination.

Due to the security concerns raised by the Individual's LOI responses, the LSO referred the Individual for an evaluation by a DOE-contractor psychologist (DOE Psychologist), who conducted a two-and-a-half-hour clinical interview of the Individual in June 2024 and issued a report (the Report) of her findings. Ex. 8. Based on her evaluation of the Individual, the DOE Psychologist opined that the Individual met sufficient diagnostic criteria in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR)*, for a diagnosis of Alcohol Use Disorder (AUD), Moderate, in Early Remission, and that the Individual had not shown adequate evidence of rehabilitation or reformation. *Id.* at 67.

In August 2024, the LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 6–7. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. *Id.* at 5.

In September 2024, the Individual requested an administrative hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). Ex. 2. 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 the Individual and the DOE Psychologist. *See* Transcript of Hearing, OHA Case No. PSH-25-0004 (Tr.). Counsel for the DOE submitted 10 exhibits, marked as Exhibits 1 through 10. The Individual submitted three exhibits, marked as Exhibits A through C.

## **II. The Summary of Security Concerns**

As previously mentioned, the Notification Letter included the SSC, which sets forth the derogatory information that raised concerns about the Individual's eligibility for access authorization. The SSC informed the Individual that information in the possession of the DOE created substantial doubt concerning his eligibility for a security clearance under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Ex. 1 at 5.

Under Guideline G, “excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Conditions that could raise a security concern under Guideline G include a “diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder.” *Id.* at ¶ 22(d). In citing Guideline G, the LSO relied upon the DOE Psychologist's opinion that the Individual met the *DSM-5-TR* criteria for AUD, Moderate, in Early Remission, and that he had not shown adequate evidence of rehabilitation or reformation. Ex. 1 at 5.

## **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 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**

In approximately October 2023, the Individual was interviewed by the Occupational Psychologist, as part of an annual HRP evaluation conducted by his employer. Ex. 8 at 62. During his interview, the Individual reported that he would refrain from consuming alcohol "for the one or two months before and during" his annual HRP fitness tests and weapons qualifications, which were usually administered within one or two months of each other. *Id.* at 64. The Occupational Psychologist was concerned about the Individual's alcohol use and that he would stop drinking "only for his evaluations," so in December 2023, the Individual was ordered to undergo a Phosphotidylethanol (PEth)<sup>3</sup> test to detect his alcohol consumption. *Id.* at 63–64. The results of the Individual's PEth test were positive, at level of 803 ng/mL. *Id.* at 64; Ex. C at 1–2.

In January 2024, the Occupational Psychologist recommended that the Individual abstain from consuming alcohol, participate in random alcohol testing, and receive alcohol treatment from an Intensive Outpatient Program (IOP). Ex. 2 at 12; Ex. 8 at 64.

In his May 2024 LOI, the Individual reported that the last time he consumed alcohol was on January 8, 2024, at which time he consumed three 12-ounce cans of beer. Ex. 7 at 55. He also reported that he was undergoing alcohol treatment. *Id.* at 52. On February 9, 2024, the Individual enrolled in an IOP, and he submitted a Certificate of Completion, indicating he completed 90 hours of alcohol treatment on May 15, 2024. Ex. 2 at 18. On February 22, 2024, the Individual completed a six-week Alcohol Awareness Class, which was provided through his employer's Employee Assistance Program (EAP). Ex. 8 at 52–53; Ex. 2 at 19. In February 2024, the Individual underwent a second PEth test, the results of which were positive, at a level of 22 ng/mL. Ex. 8 at 64. The Individual also underwent PEth testing in April and May of 2024, the results of which were negative. Ex. C at 5–8.

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<sup>3</sup> The Report indicates that PEth is "a metabolite of ethyl alcohol," which can only be made when ethyl alcohol reacts with a compound in red blood cells. Ex. 8 at 65. PEth can be detected in the blood "for about 28 days after alcohol consumption has ceased." *Id.* "PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption." *Id.* at 79.

During his May 2024 psychological evaluation, the Individual told the DOE Psychologist that he would refrain from consuming alcohol for the “one or two months before and during” his annual HRP fitness and weapons qualifications to “feel more collected.” Ex. 8 at 63. He stated that on May 15, 2024, he completed the IOP. *Id.* at 64. He stated the IOP’s group sessions helped him recognize that he “kinda messed up,” and seeing other people in the class helped remind him of his goal to reduce his alcohol consumption. *Id.* at 65. He also told the DOE Psychologist that since January 8, 2024, he has abstained from alcohol. *Id.* at 62. As part of his evaluation, the Individual underwent PEth testing in June 2024, the results of which were negative for the presence of alcohol. *Id.* at 79.

In July 2024, the DOE Psychologist contacted the Occupational Psychologist about the Individual’s alcohol consumption. Ex. 8 at 62. The Occupational Psychologist told the DOE Psychologist that the Individual’s February 2024 PEth test result suggested that he “consumed small amounts of alcohol in the month of January [2024],” even though he claimed he abstained during most of that month. *Id.* at 64. The Occupational Psychologist also told the DOE Psychologist that the IOP diagnosed the Individual with Alcohol Abuse, uncomplicated, moderate, and the IOP reported to her that the Individual “did well in the program.” *Id.* at 64.

The DOE Psychologist diagnosed the Individual with AUD, Moderate, in Early Remission. Ex. 8 at 66. She found that although the Individual’s February 2024 PEth test indicated that he consumed alcohol during January 2024, after claiming he abstained for most of that month, his three subsequent negative PEth tests indicated that he was in early remission from his AUD. *Id.* The DOE Psychologist opined that the Individual had not yet received enough treatment to demonstrate rehabilitation or reformation from his AUD, but he was “working towards” it. *Id.* The DOE Psychologist recommended the Individual receive additional treatment, by attending “[Alcoholics Anonymous (AA)], other peer support group meetings[s] or [a] peer support specialist weekly for a minimum period of [12] months.” *Id.* at 67. The DOE Psychologist also wrote that, if the Individual chooses a path of reformation, he should “continue PEth testing every four to six weeks, which will buttress his abstinence from alcohol as well as provide objective and scientific evidence of his sobriety.” *Id.* The Report also indicates the Individual’s “[participation] in treatment and support should continue for 12 months as of the beginning of his IOP on [February 9, 2024].” *Id.*

The Individual submitted evidence that he underwent PEth testing in August 2024, September 2024, October 2024, November 2024, December 2024, and January 2025, and the results of each test were negative for the presence of alcohol. Ex. A; Ex. B; Ex. C at 9–16.

At the hearing, the Individual attributed his December 2023 PEth test result to consuming “hard liquor” while on vacation and while spending time with his family. Tr. at 11–12, 22–23. He stated the Occupational Psychologist was concerned about his alcohol use and recommended that he abstain from alcohol. *Id.* at 26. He testified that he read the Report, including the DOE Psychologist’s treatment recommendations for his AUD, Moderate. *Id.* at 13. He explained that he did not following the DOE Psychologist’s recommendation to enroll in AA or some other peer support group, or see a peer support specialist, because he believed his completion of an Alcohol Awareness Class and an IOP “were good enough” to resolve his AUD. *Id.* at 14.

The Individual testified that the Alcohol Awareness Class was an educational program that taught him how alcohol affects the body and how it can affect one’s judgment. Tr. at 14. He explained

that the IOP required that he attend classes four days a week: group classes three days a week, and individual meetings with a counselor, one day a week. *Id.* at 27. During two of the group classes, the Individual would watch videos, and everyone would sit in a circle and talk about their alcohol use. *Id.* at 27. During the third group class, the Individual would participate in projects related to alcohol consumption, such as discussing the amount of alcohol in a typical shot or a glass of wine. *Id.* at 27. He explained that he would meet with a counselor on Fridays, for one hour. *Id.* at 14–15. He initially did not think he had an issue with alcohol, but the IOP made him “rethink” about his relationship with alcohol. *Id.* at 15.

The Individual further testified that he has abstained from consuming alcohol since January 8, 2024, and he does not intend to drink alcohol in the future. Tr. at 15, 22. He stated that during the past year, he has attended birthday parties and gone on vacation, and he did not consume alcohol. *Id.* at 15. Since he has stopped drinking, he no longer feels “groggy in the morning,” and he has more energy. *Id.* at 16. He does not keep any alcohol in his home. *Id.* at 16. In November 2024, during a family dinner, people were drinking alcohol around him, but rather than drink alcohol himself, he drank sodas instead. *Id.* at 17. He also explained that he lives with someone who supports his choice to abstain from alcohol, talks to him daily about any issues that may tempt him to resume drinking, and does not bring alcohol into the home. *Id.* at 18. Instead of going out to drink alcohol, he spends more time watching television and playing video games, and he spends more time with his family. *Id.* at 30.

The DOE Psychologist testified that after listening to the Individual’s testimony and reviewing the Individual’s exhibits, she believes the Individual is adequately reformed from his AUD, Moderate. Tr. at 34. She explained that she recommended the Individual enroll in AA, or some other peer support group, because abstaining from alcohol is difficult for a person to do on their own, and having the support of a community of people that are also sober “enhances and entrenches” positive behaviors, so they can become habits. *Id.* at 36. She stated that although the Individual did not participate in AA, he has shown that he has developed the behaviors to sustain his abstinence, in the form of PEth testing, and has thereby demonstrated reformation from his AUD. *Id.* at 36–37. She explained that the *DSM-5-TR* requires 12 months of abstinence from alcohol before a person can be deemed to be in sustained remission from their AUD. *Id.* at 35. She stated that from February 9, 2024, the date the Individual enrolled in an IOP, to the date of the hearing, the Individual has shown he is “on the correct path,” and is two weeks away from meeting the clinical definition of being in sustained remission from his AUD, Moderate. *Id.* at 35, 37.

## V. Analysis

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.

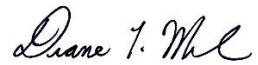
Based upon the evidence before me, I find the Individual has mitigated the security concerns related to his alcohol consumption under ¶ 23(b) and ¶ 23(d) of the Adjudicative Guidelines. The Individual admitted that he would refrain from consuming alcohol one or two months before his annual HRP evaluations so he could satisfy his employer's work requirements. After meeting with the Occupational Psychologist, he realized his behavior was a problem. The Individual submitted evidence that he followed the recommendations of the Occupational Psychologist and successfully completed a six-week Alcohol Awareness Class, and a 90-hour IOP, between February and May 2024, in order to address his alcohol consumption. The Individual also submitted nine negative PEth tests, dated from April 2024 to January 2025, which demonstrates a clear and established pattern of abstinence from alcohol. The Individual's efforts to overcome his maladaptive alcohol use were such that by June 2024, the DOE Psychologist determined he was in early remission from his AUD, Moderate. The Individual also testified that he does not intend to drink alcohol in the future and that he lives with someone who supports his choice to abstain from alcohol.

Furthermore, I am persuaded by the DOE Psychologist's opinion that although the Individual did not enroll in AA, or some other peer support program, the Individual's nine months of negative PEth tests show he has developed the behaviors to sustain his abstinence, and that he is reformed from his AUD, Moderate, without having needed the peer support provided by AA or another similar program. The DOE Psychologist also opined that the Individual was two weeks away from meeting the clinical definition of being in sustained remission from his AUD, Moderate. Therefore, I conclude that the Individual has acknowledged his pattern of maladaptive alcohol use, has provided sufficient evidence he successfully completed a treatment program, and has demonstrated a clear and established pattern of abstinence sufficient to mitigate the stated Guideline G concerns. Adjudicative Guidelines at ¶ 23 (b), (d).

## **VI. Conclusion**

For the reasons set forth above, I conclude that the LSO properly invoked Guideline G of the Adjudicative Guidelines. After considering all of the relevant information, 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 brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should be restored.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

A handwritten signature in cursive script, appearing to read "Diane L. Miles".

Diane L. Miles  
Administrative Judge  
Office of Hearings and Appeals