United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Personnel Security Hearing	)		
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Filing Date: December 31, 2024	)	Case No.:	PSH-25-0055
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Issued: April 2, 2025

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXX (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."[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 restored.

I. BACKGROUND

On April 24, 2024, at which time he possessed access authorization, the Individual submitted a Personnel Security Information Report (PSIR) to the local security office (LSO) disclosing that he had received inpatient alcohol treatment from March 7, 2024, to April 8, 2024. Exhibit (Ex.) 3 at 4–5. The Individual represented in the PSIR that he last consumed alcohol on March 7, 2024. *Id.* at 5. The LSO issued the Individual a letter of interrogatory (LOI) concerning his alcohol consumption practices and treatment. Ex. 5 at 1–4. In his May 9, 2024, response to the LOI, the Individual represented that he had "ceased all alcohol consumption." *Id.* at 2. The Individual also provided inconsistent information on the PSIR and in his response to the LOI concerning his alcohol consumption practices prior to receiving inpatient treatment and denied having been prescribed medication "specifically for alcohol abuse" through his inpatient treatment. Ex. 3 at 5; Ex. 5 at 2; Ex. 6 at 1.

[1] 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.

On August 1, 2024, the Individual met with a DOE-contracted psychiatrist (DOE Psychiatrist) for a psychiatric assessment. Ex. 4 at 1. During the evaluation, the Individual denied having consumed alcohol since entering inpatient treatment in March 2024. *Id.* at 8. However, the results of Phosphatidylethanol (PEth)[2] testing conducted at the request of the DOE Psychiatrist were positive at 1,306 ng/mL. *Id.* at 19. The DOE Psychiatrist also reviewed records from the Individual's inpatient treatment which he concluded demonstrated that the Individual was prescribed medication to treat symptoms of alcohol withdrawal. *Id.* at 7, 9. The DOE Psychiatrist subsequently issued a report of the psychiatrist assessment (Report) in which he opined that the Individual met sufficient criteria for a diagnosis of Alcohol Use Disorder (AUD), Severe, under the *Diagnostic and Statistical Manual of Mental Health Disorders – Fifth Edition* (*DSM-5*), the Individual's AUD could impair his judgment and reliability, and the Individual habitually or binge consumed alcohol to the point of impaired judgment. *Id.* at 14–15.

The LSO issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 1–3. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E, G, and I of the Adjudicative Guidelines. *Id.* at 4–6.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted seven exhibits (Ex. 1–7). The Individual submitted six exhibits[3] (Ex. A–F).[4] The Individual testified on his own behalf. Tr. at 6. The LSO offered the testimony of the DOE Psychiatrist. *Id.* at 39.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as one basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 4–5.

> Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability,

[2] PEth is a biomarker for alcohol consumption that can be detected in blood for at least three weeks following moderate or greater episodes of alcohol consumption. Ex. 4 at 11.

[3] In addition to the Individual's exhibits, counsel for the Individual submitted a written brief arguing that the Individual's access authorization should be restored. The brief addresses aspects of the "whole person" standard at length, including an examination of the history that led to the development of the whole person standard, socio-cultural factors that might influence the application of the whole person standard, and the intent of the whole person standard in the national security context. The brief also includes numerous excerpts from administrative decisions concerning the application of the relevant portions of the Adjudicative Guidelines. While the brief provides detailed and insightful analysis, I do not find the considerations therein sufficient to overcome the security concerns presented by the significant adverse information alleged by the LSO.

[4] The Individual submitted Ex. A–C as a single PDF, and Ex. D, E, and F as individual PDFs. Citations to the pagination of the Individual's exhibits will be based on the order in which pages appear in the PDF containing Ex. A–C and will restart at "1" for each of Ex. D, E, and F.

> trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Adjudicative Guidelines at ¶ 15. The SSC alleged that the Individual provided inconsistent information concerning his alcohol consumption practices prior to inpatient treatment, inaccurately denied having been prescribed medication for alcohol abuse during inpatient treatment, and falsely denied having consumed alcohol following inpatient treatment on the PSIR, in his response to the LOI, and in the psychiatric assessment. Ex. 1 at 4–5. The LSO's allegations that the Individual deliberately provided false information on the PSIR, in his response to the LOI, and to a mental health professional involved in making a recommendation relevant to a national security eligibility determination justify its invocation of Guideline E. Adjudicative Guidelines at ¶ 16(a)–(b).

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as another basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 5–6. "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. The SSC alleged that the Individual habitually and binge consumed alcohol to the point of impaired judgment and cited the DOE Psychiatrist's opinion that the Individual met sufficient criteria for a diagnosis of AUD under the *DSM-5*. Ex. 1 at 5–6. The LSO's allegations that the Individual habitually or binge consumed alcohol to the point of impaired judgment and was diagnosed with AUD by a duly qualified medical or mental health professional justify its invocation of Guideline G. Adjudicative Guidelines at ¶ 22(c)–(d).

The LSO cited Guideline I (Psychological Conditions) of the Adjudicative Guidelines as the final basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 6. "Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness." Adjudicative Guidelines at ¶ 27. The SSC referenced the same information alleged under Guideline G in invoking Guideline I. Ex. 1 at 6. The LSO's citation to the DOE Psychiatrist's opinion that the Individual met sufficient criteria for a diagnosis of AUD under the *DSM-5*, and that this condition could impair the Individual's judgment and reliability, justifies its invocation of Guideline I. Adjudicative Guidelines at ¶ 28(b).[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 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*

[5] To the extent that the LSO sought to allege that the Individual's alcohol-related conduct presented security concerns pursuant to ¶ 28(a), such allegations would not be appropriate because behaviors that pose security concerns pursuant to ¶ 28(a) are limited to those "not covered under any other guideline . . . ." Adjudicative Guidelines at ¶ 28(a). As the Individual's alcohol-related conduct presents security concerns under Guideline G, I will not consider it under ¶ 28(a).

Dep't 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).

An 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). An individual is afforded a full opportunity to present evidence supporting his or her 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

The Individual was admitted to inpatient alcohol treatment on March 8, 2024. Ex. C at 131; Ex. 7 at 6. Clinicians providing the treatment program diagnosed the Individual with Alcohol Dependence, Moderate. Ex. 7 at 6. The inpatient treatment program provided the Individual with daily group counseling and psychoeducational courses, as well as weekly individual counseling and various other programming related to health, wellness, and relapse prevention. *Id.*; Ex. C at 131–32. While participating in inpatient treatment, the Individual was prescribed Librium, a benzodiazepine routinely used to treat and prevent symptoms of alcohol withdrawal, as well as medication for a chronic condition and numerous vitamins.[6] Ex. 7 at 6; Tr. at 55.

The Individual was discharged from inpatient treatment on April 8, 2024. Ex. C at 131. At discharge, clinicians at the inpatient facility deemed the Individual "stable" with "no concerns of impaired judgment." Ex. 7 at 7. The Individual was provided with recommendations at discharge, including attending ninety Alcoholics Anonymous (AA) meetings in ninety days, obtaining an AA sponsor, and following up with his primary care physician. Ex. C at 134.

On April 24, 2024, the Individual submitted the PSIR to the LSO. Ex. 3 at 4. The Individual reported his inpatient alcohol treatment on the PSIR and indicated that, prior to entering inpatient treatment, he had consumed "about three shots and three beers[approximately] four times a week." *Id.* at 4–5. The Individual represented on the PSIR that he had last consumed alcohol on March 7, 2024. *Id.* at 5.

On May 9, 2024, the Individual submitted his response to the LOI, including a certification that the information he provided therein was "correct and complete to the best of [his] knowledge and belief." Ex. 5 at 4. In his response to the LOI, the Individual stated that the death of his mother in December 2023 led to him experiencing "temporary dependence on alcohol." *Id.* at 2. The Individual claimed that following the death of his mother he "typically consume[d] 1 – 2 alcoholic drinks" daily. *Id.* The Individual denied that he was prescribed medication in connection with his

[6] The DOE Psychiatrist testified at the hearing that the Individual was "almost assuredly" prescribed Librium either because he was experiencing symptoms of alcohol withdrawal or was deemed "at risk for withdrawal based on his reported [] level of alcohol utilization when he entered the program." Tr. at 56.

inpatient treatment. *Id.* He also checked a box marked "yes" in response to a question asking if he had "ceased all alcohol consumption." *Id.*

In addition to his response to the LOI, the Individual also provided the LSO with a copy of the discharge summary issued to him by the inpatient treatment facility. *Id.* at 11–15. The documentation provided by the Individual to the LSO indicated that he was provided with a "[d]ischarge [m]edication [l]ist and [e]ducation." *Id.* at 14. On May 31, 2024, an employee of the LSO asked the Individual to explain what medication and information was provided to him by the inpatient treatment facility. Ex. 6 at 1. On June 4, 2024, the Individual responded and claimed that he was prescribed medication for a chronic condition and that "no medication was prescribed specifically for alcohol abuse." *Id.*

After obtaining a release from the Individual, the LSO contacted a therapist at the inpatient treatment facility who had provided services to the Individual. Ex. 7; *see also* Ex. 5 at 1 (reflecting that the Individual identified the therapist as a treatment provider in response to the LOI). On June 12, 2024, the therapist provided information to the LSO. Ex. 7 at 1, 6–7. Among other information, the therapist indicated that the inpatient treatment facility had prescribed the Individual Librium. *Id.* at 6.

The DOE Psychiatrist conducted the psychiatric assessment of the Individual on August 1, 2024. Ex. 4 at 1–2. The Individual told the DOE Psychiatrist that he began caring for his mother in 2016 and represented that from that time until his mother's death in 2023 he consumed approximately two or three shots of vodka three to four times monthly. *Id.* at 5. The Individual said that he persisted in consuming alcohol despite feelings of guilt for doing so due to his religious beliefs and his mother disapproving of his alcohol consumption. *Id.* The Individual indicated that he "made several attempts" at reducing or discontinuing alcohol use. *Id.*

The Individual told the DOE Psychiatrist that, after his mother's death in December 2023, his alcohol consumption increased to six to twelve ounces per occasion two or three days per week. *Id.* When confronted by the DOE Psychiatrist with the inconsistency of this account with the information that he provided in the PSIR, the Individual indicated that he would also consume beer on occasion with a friend. *Id.* at 5–6. According to the DOE Psychiatrist, the Individual provided inconsistent, contradictory accounts of whether he experienced difficulties limiting his alcohol consumption and cravings to consume alcohol during this period. *Id.* at 6. The Individual indicated that he decided to pursue treatment at the inpatient treatment facility after several family members expressed concern about his alcohol consumption. *Id.*

The Individual denied having consumed alcohol since prior to attending inpatient treatment. *Id.* at 8. He also denied experiencing any urges to consume alcohol and stated that he intended to "leave [alcohol] alone" in the future. *Id.* The Individual indicated that he did not attend AA as recommended by the inpatient treatment facility or pursue other alcohol-related support due to concerns about costs and "juggl[ing] work . . . and working out and stuff like that." *Id.* at 8.

At the request of the DOE Psychiatrist, the Individual provided a sample for PEth testing. *Id.* at 10. The results of the PEth test were positive at 1,306 ng/mL. *Id.* at 19. According to the DOE

Psychiatrist, studies have found PEth levels in excess of 1,000 ng/mL to be consistent with consumption of an average of five to seven alcoholic drinks per day. *Id.* at 10.

The DOE Psychiatrist issued the Report on September 6, 2024. *Id.* at 16. In the Report, the DOE Psychiatrist concluded, based on the Individual's alcohol consumption creating sufficient "concern on the part of family members so as to facilitate his entry into a monthlong residential recovery program" and the highly elevated results of the PEth test, that the Individual was an "unreliable reporte[r] concerning the extent of his alcohol utilization." *Id.* at 11. Consequently, the DOE Psychiatrist inferred that the Individual both binge consumed alcohol and habitually consumed alcohol to the point of impaired judgment. *Id.* The DOE Psychiatrist also concluded that the Individual met sufficient criteria for a diagnosis of AUD, Severe, under the *DSM-5*, and that the condition impaired the Individual's judgment and reliability. *Id.* at 14. The DOE Psychiatrist recommended that the Individual abstain from alcohol for at least twelve months, document his abstinence from alcohol via at least two PEth tests and frequent random breath alcohol tests, participate in his employer's employee assistance program for at least twelve months, attend an inpatient treatment program or intensive outpatient program for alcohol treatment for at least four weeks, and attend aftercare or AA meetings for a total of twelve months of treatment. *Id.* at 15.

In his hearing testimony, the Individual claimed that he began attending AA meetings on a daily basis in December 2024. Tr. at 10, 24. The Individual indicated that he did not have an AA sponsor and "just listen[ed]" when attending AA meetings because it was "new to [him]." *Id.* at 13, 33. According to the Individual, hearing the experiences of other AA participants helped him to better understand "how this disease work[s]." *Id.* at 16.

The Individual began meeting with a licensed professional counselor (Individual's Counselor) on December 12, 2024. Ex. D (letter from Individual's Counselor concerning his enrollment and attendance); Tr. at 10. The Individual met with the Individual's Counselor on a weekly basis up to the date of the hearing. Ex. D; Tr. at 24. The Individual's meetings with the Individual's Counselor have focused on his grief related to the death of his mother, though the Individual and the Individual's Counselor have had "conversations . . . about [his] issue with alcoholism . . . ." Tr. at 35.

On December 30, 2024, the Individual provided a sample for PEth testing. Ex. F at 1. The December 2024 PEth test was positive at 107 ng/mL. *Id.*

In his hearing testimony, the Individual testified that his alcohol consumption, which he asserted was previously moderate social drinking, became problematic following the death of his mother, for whom he had been providing care, in December 2023. Tr. at 10, 17, 29. The Individual claimed that he used alcohol at that time to cope with feelings of grief related to his mother's death. *Id.* at 10. He testified that he was trying to abstain from alcohol but acknowledged that he had consumed alcohol since meeting with the DOE Psychiatrist. *Id.* at 12, 32. He represented that his "drinking [was] tremendously down from . . . last year" and indicated that he did not believe that he had AUD. *Id.* at 12, 29. He claimed that he had last consumed alcohol approximately one month prior to the hearing when he had a glass of wine while out to dinner. *Id.* at 12, 32.

The Individual acknowledged that he provided inaccurate information to the DOE Psychiatrist during the psychiatric assessment when he told the DOE Psychiatrist that he had not consumed alcohol since his release from inpatient treatment. *Id.* at 14. The Individual testified that he had participated in the psychiatric assessment remotely from his office at a DOE site and asserted that he could not clearly hear the DOE Psychiatrist over the phone. *Id.*; *but see id.* at 51 (testimony of the DOE Psychiatrist that he did not observe any evidence during the psychiatric assessment that the Individual could not hear or understand his questions clearly). He also stated that he did not "give the right answer" to the DOE Psychiatrist when asked if he had consumed alcohol following inpatient treatment, noting that the "walls [at the DOE site] are thin [and he] . . . didn't want [his] . . . co-workers [to] know that [he] was getting [assessed] on this" and that he was "ashamed." *Id.* at 14. The Individual denied recollection of when he relapsed following inpatient treatment, though he acknowledged that he "probably had a couple" of alcohol drinks prior to his response to the LOI in which he denied having consumed alcohol since his discharge from the inpatient treatment facility. *Id.* at 21–22. He also denied knowing that he had been prescribed Librium during inpatient treatment. *Id.* at 28.

The DOE Psychiatrist opined at the hearing that Individual had not demonstrated rehabilitation or reformation, even if his unsubstantiated claims concerning AA attendance were true.[7] *Id.* at 44. The DOE Psychiatrist indicated that, even if the Individual was attending AA, his lack of active participation in meetings, failure to obtain a sponsor, and lack of action to work the 12 steps of the AA program indicated that he was not "meaningfully participating in AA in a way that would be in furtherance of [] rehabilitation." *Id.* at 45. He further noted that the Individual's positive PEth test in December 2024 demonstrated that the Individual was consuming at least moderate amounts of alcohol in the four weeks prior to the test despite his intention to abstain from alcohol. *Id.* at 43, 45. The DOE Psychiatrist additionally testified that, due to the lack of treatment records and information on the training and experience of the Individual's Counselor, he was unsure whether the Individual's Counselor was aware of the extent of the Individual's alcohol-related problems or if she had appropriate training and skills to provide the Individual with treatment suitable to his AUD. *Id.* at 55. For the aforementioned reasons, he indicated that his opinion concerning the Individual's AUD was unchanged and that the Individual was continuing to use alcohol maladaptively. *Id.* at 56–57.

V. ANALYSIS

A. Guideline E

Conditions that could mitigate security concerns under Guideline E include:

> (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

[7] Following the hearing, the Individual submitted photos of a church and a closed door within the church with a sign indicating that the room behind the door was for AA. Ex. E. Even if AA meetings are actively being conducted at the photographed church, photos demonstrating the existence of the AA meetings do not establish that the Individual attended AA on a daily basis for months as he claimed.

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

In his hearing testimony, the Individual represented that he had not intended to mislead the LSO or DOE Psychiatrist. Specifically, he claimed that he was unaware that he had received medication to help manage symptoms of alcohol withdrawal at the inpatient treatment facility, that his misstatements to the DOE Psychiatrist were partially due to mishearing questions, and that he did not correct his misstatements to the DOE Psychiatrist due to embarrassment and concern that colleagues would hear his statements if he disclosed his relapse. However, considering the number of occasions on which the Individual allegedly failed to fully disclose information related to his alcohol use and treatment, the Individual's vague testimony concerning the date of his relapse following inpatient treatment and admission that he probably relapsed prior to responding to the LOI, and, as explained in detail below, the Individual's failure to take reasonable steps to correct the inaccurate information that he provided during the psychiatric assessment, I find it more probable that the Individual intentionally provided misleading information than that he repeatedly made unintentional mistakes.

The Individual testified that he realized during the psychiatric assessment with the DOE Psychiatrist that he had inaccurately reported that he had abstained from alcohol when in fact he had consumed significant quantities of alcohol. Despite knowing that he had provided inaccurate information that would mislead the DOE Psychiatrist, the Individual made no effort to disclose his

relapse. The Individual asserted that he was concerned that colleagues would overhear him if he told the DOE Psychiatrist about his relapse and that he was ashamed. Even if this claim is true, the Individual could have come forward with the truth to the LSO or DOE Psychiatrist at a later time in a suitably private environment. Instead, the Individual concealed the information and made no effort to correct his inaccurate statement before he received the SSC. Thus, the first mitigating condition is inapplicable. *Id.* at ¶ 17(a).

The second mitigating condition is inapplicable to the facts of this case because the Individual does not allege that he relied on the advice of any other person in failing to come forward to the LSO and DOE Psychiatrist regarding his relapse following treatment. *Id.* at ¶ 17(b).

The Individual's omissions and inaccurate statements concerning his alcohol use and treatment were significant given the importance of this information to assessing the true extent and recency of the Individual's alcohol misuse. Considering the repeated nature of these omissions, which the Individual did not fully accept responsibility for at the hearing, I find the third mitigating condition inapplicable. *Id.* at ¶ 17(c).

The Individual has not fully acknowledged responsibility for his omissions, nor has he pursued counseling specifically related to untruthfulness. Accordingly, I find the fourth mitigating condition inapplicable. *Id.* at ¶ 17(d). The fifth mitigating condition is inapplicable because the LSO did not allege that the Individual engaged in conduct that placed him at special risk of exploitation, manipulation, or duress. *Id.* at ¶ 17(e). The sixth mitigating condition is irrelevant to the facts of this case because the LSO's allegations did not rely on sources of questionable reliability. *Id.* at ¶ 17(f). The seventh mitigating condition is likewise irrelevant because the LSO did not allege that the Individual associated with persons involved in criminal conduct. *Id.* at ¶ 17(g).

For the aforementioned reasons, I find that none of the mitigating conditions under Guideline E are applicable to the facts of this case. Accordingly, the Individual has not resolved the security concerns asserted by the LSO under Guideline E.

B. Guideline G

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; or,

(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.

In light of the Individual's lack of forthcomingness to the DOE Psychiatrist regarding his heavy alcohol consumption, and the lack of evidence to corroborate the Individual's claimed alcohol consumption history, I find that the Individual is not a sufficiently reliable source of information concerning his alcohol consumption for me to find the first mitigating condition applicable. Moreover, in light of the Individual's admission to having consumed at least some alcohol within a month of the hearing and the evidence from the December 2024 PEth test that he consumed greater quantities of alcohol in December 2024 despite the DOE Psychiatrist's recommendation to abstain from alcohol and the Individual's stated intention to do so, I find it highly likely that the Individual will misuse alcohol in the future. Thus, the first mitigating condition is inapplicable. *Id.* at ¶ 23(a).

The second mitigating condition is inapplicable because the Individual has not abstained from alcohol as recommended by the DOE Psychiatrist or complied with the DOE Psychiatrist's treatment recommendations. *Id.* at ¶ 23(b). The third mitigating condition is inapplicable because the Individual is not pursuing the treatment recommended by the DOE Psychiatrist and relapsed following his inpatient alcohol treatment. *Id.* at ¶ 23(c). The fourth mitigating condition is inapplicable because the Individual has neither abstained from alcohol nor completed treatment consistent with the DOE Psychiatrist's recommendations. *Id.* at ¶ 23(d).

Having concluded that none of the mitigating conditions are applicable to the facts of this case, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline G.

C. Guideline I

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.

As described in the analysis above concerning Guideline G, the Individual has not followed the DOE Psychiatrist's recommendations concerning abstaining from alcohol or participating in treatment. To the contrary, he has consumed alcohol against treatment recommendations, the DOE Psychiatrist indicated that the Individual's AUD is not in remission or under control, and the Individual has not brought forward a favorable prognosis for his AUD from a suitably qualified mental health professional. As the Individual has not complied with treatment recommendations, has recently consumed alcohol despite his desire to abstain, and is high at risk of future maladaptive alcohol use, I find that none of the mitigating conditions under Guideline I are applicable. *Id.*

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines E, G, and I of the Adjudicative Guidelines. After considering all the relevant information, 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 security concerns asserted by the LSO. Accordingly, I have determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals