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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: December 17, 2024)	Case No.: PSH-25-0050
)	
_____)	

Issued: May 6, 2025

Administrative Judge Decision

Noorassa A. Rahimzadeh, 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."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

In September 2020, the Individual was arrested and charged with Battery and Battery on a Law Enforcement Officer, and he reported the matter to the Local Security Office (LSO) days later. Exhibit (Ex.) 10 at 51; Ex. 11 at 53.² In an affidavit, the arresting officer indicated that he was "dispatched to a disturbance at" a local bar on the evening of the Individual's arrest. Ex. 16 at 93. Per the affidavit, a bartender attempted to escort the Individual out of the establishment and after the Individual attempted to strike the bartender, the Individual missed and fell to the ground. *Id.* at 93–94; Ex. 13 at 68, 70. A witness believed the Individual to be unconscious, and "went to his aid." Ex. 16 at 93; Ex. 13 at 68. While the witness was checking the Individual's pulse, the Individual awoke and "punch[ed] her in the left eye." Ex. 16 at 93–94. The Individual "grabbed" a second witness "in the inside area of the upper thigh on his right leg[,] then proceeded to stand up "and spit on" a third witness. *Id.* at 94; Ex. 13 at 68. The Individual fled the scene on foot when he heard sirens. Ex. 16 at 94–95. The affidavit indicates that when the arresting officer approached

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.

² 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.

the Individual, he observed blood on the Individual and accordingly, the Individual was arrested and taken to the hospital to receive medical attention. *Id.* at 95. When the Individual was taken to the hospital and placed on a gurney, he “became agitated and began kicking his legs around.” *Id.*; Ex. 13 at 69. One officer was struck in the chest. Ex. 16 at 95. A blood alcohol test was conducted at the hospital, yielding a result of .303 mg/dL. Ex. 17 at 117; Ex. 12 at 59; Ex. 13 at 70. The Individual had “no recollection of . . . what transpired . . . that evening.” Ex. 12 at 59; Ex. 13 at 68; Ex. 14 at 72. The Individual indicated that on this occasion, he consumed approximately four beers and two shots of alcohol over the span of almost six hours when he “met up with a college friend.” Ex. 13 at 70; Ex. 14 at 73.

To resolve the 2020 charge, in March 2021, the Individual was permitted to participate in a diversion program, which stayed criminal prosecution in exchange for the performance of specific “conditions and obligations.” Ex. 9 at 36–49; Ex. 14 at 73; Ex. 15 at 82, 84–91. “The term of the diversion program extend[ed] for a period of [twelve] months[,]” and pursuant to the requirements of the program, the Individual completed fifteen hours of counseling in March 2021. Ex. 15 at 86; Ex. 12 at 62; Ex. 14 at 74. He was also required to complete fifty hours of community service, submit to random drug tests, pay necessary fines, and abstain from consuming alcohol. Ex. 14 at 74.

Following the September 2020 incident, the LSO directed the Individual to complete two Letters of Interrogatory (LOI) in March 2021 and June 2021. Ex. 13; Ex. 14. In the March 2021 LOI, the Individual indicated that he would “never have any involvement in criminal activity in the future.” Ex. 14 at 76.

In May 2024, the Individual was arrested for Driving While Intoxicated (DWI). Ex. 8 at 34. The Individual “declined a breathalyzer on the side of the road” prior to his arrest. *Id.* As a result of this arrest, the Individual was once again asked to complete an LOI, which the Individual signed and submitted in July 2024. Ex. 12. As questions still remained, the Individual underwent a psychological evaluation with a DOE-consultant psychologist (DOE Psychologist) in August 2024. Ex. 18. The Individual submitted to a phosphatidylethanol (PEth) test in conjunction with the psychological evaluation, the results of which were 105 ng/mL.³ *Id.* at 122. The DOE Psychologist issued a report (the Report) of his findings in early September 2024, and in the Report, he concluded that the Individual suffers from Alcohol Use Disorder (AUD), Mild, without adequate evidence of rehabilitation or reformation. *Id.* at 123.

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 continued 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 G (Alcohol Consumption) and J (Criminal Conduct) of the Adjudicative Guidelines. Ex. 1. The 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.

³ PEth is “a direct alcohol biomarker which is found in human blood following alcohol consumption.” Ex. 18 at 122. A “PEth result exceeding 20 ng/mL indicates [two to four] drinks/day or [fourteen] drinks per week on average for men.” *Id.*

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 his therapist (Individual's Therapist), an expert psychologist (Individual's Psychologist), and his wife. *See* Transcript of Hearing, OHA Case No. PSH-25-0050 (hereinafter cited as "Tr."). The Individual also submitted sixteen exhibits, marked Exhibits A through P. The DOE Counsel submitted twenty exhibits marked as Exhibits 1 through 20 and presented the testimony of the DOE Psychologist.

II. Notification Letter

Guideline G

Under Guideline G, "[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness." Adjudicative Guidelines at ¶ 21. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are "alcohol-related incidents away from work, such as driving while under the influence[.]" and "diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder." *Id.* at ¶ 22(a), (d). Under Guideline G, the LSO alleged that:

1. In the September 2024 Report, the DOE Psychologist diagnosed the Individual with AUD, Mild, without adequate evidence of rehabilitation or reformation. Ex. 1 at 6.
2. In May 2024, the Individual was arrested and charged with DWI, and he "admitted being intoxicated and passing out after consuming one shot of whisky, four [twelve-ounce] beers, and five [sixteen-ounce] beers prior to his arrest." *Id.*
3. The Individual was arrested and charged with Battery on a Law Enforcement Officer and "three counts of Battery" in September 2020, after he consumed "four beers and two shots of liquor[.]" *Id.* The Individual's "blood alcohol content (BAC) was 0.303." *Id.*

The LSO's invocation of Guideline G is justified.

Guideline J

Guideline J states that "[c]riminal activity creates doubt about a person's judgment, reliability, and trustworthiness" and that, "[b]y its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations." Adjudicative Guidelines at ¶ 30. Conditions that could raise a security concern under Guideline J include "[e]vidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]" *Id.* at ¶ 31(b). Under Guideline J, the LSO alleged that:

1. The Individual was arrested and charged with DWI in May 2024. Ex. 1 at 7.

2. The Individual was arrested and charged with Battery on a Law Enforcement Officer and “three counts of Battery” in September 2020, after he Individual allegedly “punched one individual in the face, grabbed another individual’s leg/thigh, spit in another individual’s face, and kicked a police officer in the chest.” *Id.*

The LSO’s invocation of Guideline J 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

Following the 2020 incident, the Individual stated that he did not consume alcohol from September 2020 to March 2022. Ex. 12 at 60; Ex. 13 at 70; Ex. 14 at 73, 75; Tr. at 31, 48. After approximately a year-and-a-half of abstinence, the Individual made the decision with his wife to consume alcohol on “rare and special occasions.” Tr. at 31–32, 48, 64; Ex. N at 1. Accordingly, he “rarely drank” after March 2022, consuming the occasional “beer or wine at home or during a nice dinner[,] but never more than one or two drinks in an entire evening.” Ex. 12 at 60. He stated in his July 2024 LOI response that he feels “buzzed after one drink within an hour” and becomes intoxicated after consuming three to four drinks in one hour. *Id.* He has been intoxicated approximately three times since September 2020, drinking to intoxication in June 2022, December 2023, and May 2024. *Id.* at 61. In December 2023, he consumed “[eight] beers over the course of [six] hours.” *Id.*

On the day of the May 2024 DWI incident, the Individual had attended a show with a friend. Ex. A at 4; Ex. 12 at 57. Prior to leaving home, he had arranged that his wife would pick him up from the show if he drank alcohol. Ex. A at 4; Ex. 12 at 57; Tr. at 32, 50. The Individual reported that between the hours of 5:30 pm and 9:30 pm, he consumed one shot of liquor, four twelve-ounce

beers, and five sixteen-ounce beers, discarding some of the beer down a toilet.⁴ Ex. 12 at 57; Ex. 18 at 121; Tr. at 51. Around 7:30 pm, he had called his wife to alert her to the fact that she would need to pick him up from the show venue, as he was intoxicated. Ex. 12 at 57; Ex. 18 at 121; Tr. at 32–33, 50–51. They agreed that he would call her again at the end of the show, at which point she would pick him up. Tr. at 33. At the end of the show, the Individual returned to his vehicle around 9:30 pm, as it was cold and raining, and he pressed the start push button out of “muscle memory” when he sat down in the driver’s seat. Ex. 12 at 57; Ex. 18 at 121; Tr. at 33, 52. He proceeded to “pass[] out [in the driver’s seat] while trying to open [his] phone to call [his] wife.” Ex. 12 at 53; Ex. 18 at 121; Tr. at 52. At approximately 11:00 pm, law enforcement personnel awoke the Individual, and as he knew he was intoxicated, the Individual refused to submit to a Breathalyzer test when asked. Ex. 12 at 57; Ex. 18 at 121. The Individual was ultimately arrested and was “released [from custody] after midnight” the following day.⁵ Ex. 12 at 57.

During his August 2024 psychological evaluation, the Individual told the DOE Psychologist that he did not intend “to consume more than five beers at a time[,] ever.” Ex. 18 at 122. When asked about his alcohol consumption in the thirty days prior to the psychological evaluation, the Individual indicated that he consumed two drinks every night during a five-day vacation and two more cans of beer while at home on a separate occasion, for a total of approximately twelve drinks. *Id.* As indicated above, the Individual submitted to a PEth test, the results of which were 105 ng/mL. *Id.* A medical doctor’s interpretation of the result “indicates [the Individual] has consumed alcohol during the previous month” at a level “averaging [two to four] drink/day several days/week or more than fourteen drinks per week.” *Id.* at 123, 129–30.

The DOE Psychologist determined that the Individual suffers from AUD, Mild, and had not shown adequate evidence of rehabilitation or reformation, as he “had a prior alcohol related event in his life and made a decision not to drink problematically[,]” but then suffered a second such event in 2024. *Id.* The DOE Psychologist opined that the Individual should not consume alcohol and that “he needs more treatment than he previously completed to maintain sobriety.” *Id.* He indicated that in order for the Individual to show adequate evidence of rehabilitation or reformation, he should “participate in a substance abuse treatment program that includes weekly group or individual therapy with a licensed provider who specializes in substance abuse treatment for a minimum of six months.” *Id.* Further, the Individual should participate in Alcoholics Anonymous (AA), or a similar type of group, on a weekly basis, “work the steps[,]” and secure a sponsor if the program offers such mentorship. *Id.* The Individual should remain abstinent from alcohol for one year, and “participate in at least monthly relapse prevention or maintenance group therapy sessions following his six months of weekly therapy.” *Id.* Finally, the Individual should submit to monthly PEth testing for the span of one year. *Id.*

⁴ The Individual estimated in his July 2024 LOI response that he consumed approximately ten “regular sized drinks in total[.]” Ex. 12 at 57. When asked what caused him to drink five to ten times more than usual, the Individual testified that “there was more alcohol that night than normal[,]” and he had not seen his friend in some years. Tr. at 69–70. The Individual felt that there was “a lot catching up” to do, and the feelings were celebratory in nature. *Id.* at 70. The alcohol consumption, accordingly, “kind of snowballed[.]” *Id.*

⁵ The Individual entered a guilty plea to the DWI “and was placed on a suspended imposition of sentence[.]” Tr. at 53.

In connection with the 2024 criminal matter, the Individual attended and completed his state's ten-hour substance awareness offender program in July 2024. Ex. G; Ex. P; Ex. 5. The Individual received a copy of the Report in November 2024 and engaged a therapist in early December 2024 "for the purpose of treating his alcohol use disorder."⁶ Ex. C; Ex. A at 3–4; Tr. at 14–15. The Individual's Therapist diagnosed him with AUD, Mild, and crafted a treatment program to address the Individual's desire to "remain sober for a sustained . . . period of time[.]"⁷ Tr. at 22–23, 55–56. The Individual also began participation in a recovery program in November 2024, and in February 2025, he was trained to be a facilitator or meeting host of the recovery program.⁸ Ex. A at 4; Ex. H; Ex. I; Tr. at 70–71. He confirmed that he intends to remain involved in the recovery program "for years to come." Tr. at 66. From November 2024 to March 2025, the Individual attended approximately nineteen recovery program meetings. Ex. I; Ex. L. The Individual attends AA meetings once a week, and from late February 2025 to March 2025, the Individual attended six AA meetings. Ex. J; Tr. at 36. The Individual also began voluntarily submitting to monthly PEth tests in December 2024, and all PEth tests results from December 2024 to March 2025 were negative.⁹ Ex. D. In February 2025, the Individual attended a Mothers Against Drunk Driving (MADD) panel and an online "truth about alcohol" course. Ex. E; Ex. F.

As indicated above, the Individual saw his own expert psychologist in February 2025. Ex. A. The Individual's Psychologist noted in her report that, among other relevant documents, she reviewed the DOE Psychologist's Report. *Id.* at 3–4. She also administered the Alcohol Use Disorder Identification test. *Id.* at 7. In her report, the Individual's Psychologist indicated that she agreed with the DOE Psychologist's conclusion that the Individual suffers from AUD, Mild. *Id.* at 9. She determined that because the Individual had remained abstinent from alcohol since late August 2024, he was in early remission. *Id.* As the Individual "began treatment as soon as he learned of his diagnosis[.]" had been abstinent since August 2024, was attending recovery group sessions, attended the MADD panel and two AA meetings, denied cravings, and formed appropriate coping skills, the Individual had shown adequate evidence of rehabilitation or reformation. *Id.* She went on to state that "[w]hile [the Individual] had demonstrated rehabilitation thus far, it is recommended that he continue to attend the individual counseling and support groups as outlined in [the DOE Psychologist's] report." *Id.* Further, she deferred to the Individual's Therapist

⁶ The Individual sees his therapist on a weekly basis. Tr. at 16.

⁷ When asked if he identified any triggers with the assistance of his therapist, the Individual said that he had "not really." Tr. at 71. He indicated that should he experience cravings, he would reach out to a sober friend. *Id.* at 71–72.

⁸ In a March 2025 letter, the recovery program meeting facilitator made reference to the Individual's "dedicated participation[.]" and the fact that he has "consistently demonstrated a sincere and ongoing commitment to his recovery." Ex. L. The facilitator also stated that the Individual "takes his personal growth seriously" and that his "level of initiative is exemplary[.]" *Id.* The program has an established "four-step process" that the Individual works through with other attendees. Tr. at 73.

⁹ The Individual testified that he has been abstinent from alcohol since his meeting with the DOE Psychologist in August 2024. Tr. at 55. He decided to stop consuming alcohol at that time, because the DOE Psychologist had informed him that he would recommend "therapy and abstaining[.]" *Id.* at 63. The Individual "took him very seriously." *Id.*

regarding the frequency of counseling sessions needed but observed that weekly sessions are likely unnecessary.¹⁰ *Id.* She provided the Individual with a favorable prognosis. *Id.*

The Individual's Therapist, who "run[s] an inpatient rehab facility[.]" testified that she believes the Individual is dedicated to his recovery and that they intend to continue working together. Tr. at 17–18. She believes that six months is a sufficient amount of time to engage in weekly therapy, after which, they will enter the "maintenance" phase and will see each other on a less frequent basis. *Id.* at 18–19. She opined that the Individual has now entered partial remission. *Id.* at 19. The Individual's Psychologist, who was present throughout the hearing, indicated that the Individual has a favorable prognosis, and in making this determination, she considered the fact that the Individual went "above and beyond" in complying with the DOE Psychologist's recommendations, he has become a recovery program facilitator, he is consistently attending and meaningfully participating in treatment, he desires to live a healthier life, and he has taken accountability for his actions. *Id.* at 85–87.

The Individual's wife testified that they have realized that, because of shifting priorities and values, alcohol no longer has a place in their lives. *Id.* at 35. The Individual and his wife have removed alcohol from their home, as they both desire a more "healthy household[.]" *Id.* She testified that she has heard the Individual express a preference for the recovery program that he joined in November 2024, as it is more "agnostic" than AA and has helped him identify healthier ways to manage his stress.¹¹ *Id.* at 37–38, 40. She also noted that the Individual has a good relationship with his therapist, and he has learned such techniques as deep breathing and meditation to cope with any triggers. *Id.* at 40. The Individual's wife testified that since the 2024 incident, the Individual has "embraced a commitment to staying sober[.]" and he is invested in his recovery. *Id.* at 38.

The DOE Psychologist testified that the Individual's AUD is in early remission, and that based on the information presented at the hearing, he believes that the Individual has shown adequate evidence of rehabilitation or reformation. *Id.* at 92–93. The DOE Psychologist described the Individual's testimony as "compelling," and felt that the Individual was "engaged in the process of maintaining his sobriety." *Id.* at 93. He observed that the Individual became a facilitator in the recovery program that he attends. *Id.* He also noted that he believes the Individual's Therapist and Psychologist are competent practitioners, and he found their testimony "compelling." *Id.* at 94. He feels that the Individual "has made significant changes in his life[.]" and he is "satisfied [with] the type of treatment and length of treatment" that the Individual has undergone. *Id.* The DOE

¹⁰ In a February 2025 letter to the Individual's Psychologist, the Individual's Therapist told the Individual's Psychologist that the Individual "attended all sessions[.]" and that he "'often exceeds the recommendations and requirements given to him,' and 'has accepted responsibility for his actions.'" Ex. A at 3; Ex. C. The Individual's Therapist also told the Individual's Psychologist that the Individual's prognosis is favorable. Ex. A at 3; Ex. C. She noted that the Individual "does not display any significant triggers or cravings[.]" and ended her letter by indicating that she does not have any "concerns regarding his drinking or mental state." *Id.*

¹¹ The Individual's wife also noted his preference for the recovery program because the Individual dislikes repeatedly identifying himself as an alcoholic at AA meetings. Tr. at 41. She indicated that the Individual does not "really identif[y] with" being an alcoholic, as he believes he is "dealing with it." *Id.* The Individual testified that sometimes, these meetings make him feel like an outsider, as he does not experience any "strong urges or cravings[.]" *Id.* at 57, 68–69.

Psychologist opined that the Individual’s prognosis is good. *Id.* When asked whether the Individual needs to remain abstinent for twelve months to show adequate evidence of rehabilitation or reformation, the DOE Psychologist testified that he does not believe so, as the Individual “is on a good path, and seems to be [in] a very reasonable place[.]” *Id.* at 97. The DOE Psychologist concluded that the amount of time the Individual had remained abstinent was reasonable under the circumstances, based on the “combination of reports” that the Individual was responsive to and engaging in treatment. *Id.* at 98. He also noted that the Individual wants to be a leader in the recovery program he attends, and he is doing more than “what was mandated.” *Id.*

V. Analysis

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.

The Individual’s latest alcohol-related incident took place in 2024, which was a number of years after the prior incident in 2020. The Individual spent years without an alcohol related incident, only to lose control again when he attended a normal social outing with a friend. A period of four years without these incidents could not successfully prevent the recurrence of such behavior, and the 2024 incident occurred less than a year ago. The passage of time is therefore not enough to mitigate the associated security concerns, given the recurrence of alcohol-related misconduct in the past following a longer period of abstinence than he has currently demonstrated, and accordingly, I cannot conclude that enough time has passed or that the behavior was infrequent. I also cannot conclude that the incidents occurred under such unusual circumstances that they do not cast doubt on the Individual’s reliability, trustworthiness, or judgment, as both incidents

occurred under very normal social circumstances. The Individual has failed to mitigate the stated concerns under mitigating factor (a).

Turning to the second mitigating condition, the Individual has acknowledged that he has used alcohol maladaptively. The DOE Psychologist, the Individual's Psychologist, and the Individual's Therapist all agreed that the Individual has made significant strides in addressing his AUD, and although the Individual has not shown that he was abstinent from alcohol for the recommended twelve months, the DOE Psychologist concluded at the hearing that the Individual has shown adequate evidence of rehabilitation and reformation. The aforementioned experts pointed to such facts as the Individual's acknowledgement that he had made a mistake, his earnest and ongoing involvement in therapy and a recovery program, his current abstinence, and his eagerness to be a leader in the recovery program. The Individual and his wife have also come to the conclusion that alcohol will no longer be part of their lives, and to that end, they have removed all alcohol from their home. These considerations establish the applicability of the second mitigating condition.

While the Individual meets the requirements of mitigating factor (b), I am also tasked with considering "[t]he nature" and "seriousness of the conduct[,]" "the circumstances surrounding the conduct," and "the likelihood of continuation or recurrence" of the conduct. 10 C.F.R. § 710.7(c). The 2020 incident was particularly serious in nature, not solely due to the fact that the Individual's blood alcohol level was notably high, but because of the acts of violence that the Individual perpetrated against bystanders. When considering the surrounding circumstances, I am reminded that although the Individual was abstinent for about a year-and-a-half following the 2020 incident, the Individual nevertheless resumed consuming alcohol again. Not only was the Individual not deterred from drinking alcohol, but he drank to excess in 2024, knowing that he lost control of his actions in 2020 after drinking to excess. This fact alone demonstrates that the Individual exercised poor judgment when he drank alcohol prior to the 2024 incident. Further, outside of the therapy that he underwent pursuant to a court order, which the Individual discontinued once he discharged his legal obligations, the Individual did not feel it necessary to seek any further treatment after committing such acts as striking a woman's face while under the influence of alcohol.

Although the Individual is receiving more regular and rigorous therapy now, he has only remained abstinent for approximately six to seven months, with evidence to corroborate his abstinence since December 2024. I am not sufficiently assured that the Individual will not return to drinking to excess again despite his treatment. When asked if he had identified any triggers, the Individual indicated that he had not despite his recent treatment which I would expect to have provided the Individual with such basic relapse prevention skills as identifying what triggers led him to consume alcohol to excess in the past. It appears that the problematic consumption of alcohol took place in the context of socializing with friends. If the Individual cannot identify his own patterns and triggers, I cannot be assured that the treatment has sufficiently addressed the poor judgment that the Individual exercised when he consumed alcohol prior to the 2020 and 2024 incidents. The 2020 and 2024 incidents involved the presence of one or more of the Individual's friends, and accordingly, it does not stretch the limits of reason to conclude that the Individual may be influenced to consume to excess around his friends again. Based on the totality of the circumstances and understanding that "any doubt as to an individual's access authorization eligibility shall be resolved in favor of the national security[,]" I cannot conclude that the presence of the second mitigating condition is sufficient to fully mitigate the stated concerns. *Id.* § 710.7(a).

With respect to the final two mitigating conditions, although the Individual is engaging in treatment, he previously relapsed following the court-ordered counseling and he has not completed a treatment program or participated in aftercare. The Individual has therefore failed to mitigate the alcohol-related security concerns pursuant to mitigating factors (c) and (d).

Although the Individual established the applicability of the second mitigating condition, I nevertheless find that the presence of this mitigating condition is not sufficient to resolve the security concerns asserted by the LSO under Guideline G in light of the seriousness and recurrence of the Individual's conduct.

Guideline J

The Adjudicative Guidelines provide that conditions that can mitigate security concerns under Guideline J include:

- (a) So much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) The individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) No reliable evidence to support that the individual committed the offense; and
- (d) There is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32.

All the criminal charges alleged by the SSC under Guideline G were realleged under Guideline J. Therefore, just as the Individual failed to mitigate the stated alcohol-related concerns under Guideline G, I cannot conclude that the Individual has mitigated the alcohol-related criminal behavior under Guideline J.

The Individual's most recent alcohol-related arrest and charge was in May 2024, which was less than a year prior to the hearing and therefore, not so long ago. I also cannot conclude that the criminal alcohol-related behavior took place under such unusual circumstances that it is unlikely to recur and does not cast doubt on the Individual's reliability, trustworthiness, or good judgment, as the behavior was in the context of meeting a friend for a social interaction. The Individual has failed to mitigate the stated concerns pursuant to mitigating factor (a).

The Individual did not argue that he was pressured or coerced into committing the alleged criminal acts. Mitigating factor (b) is not applicable. While the Individual did assert that he had no memory

of the criminal behavior that transpired in 2020, the LSO submitted an affidavit written by the arresting officer that contains sufficiently detailed information regarding the Individual's behavior, what the witnesses observed, and the Individual's physical state. Having examined the evidence pertaining to the matter, I believe that the evidence was reliable. The Individual has failed to mitigate the stated concerns pursuant to mitigating factor (c).

While the Individual did complete the diversion program following the 2020 incident, suggesting that he was successfully rehabilitated, he became involved in a second alcohol-related criminal incident in 2024. I have no information that the Individual has completed the terms of the suspended imposition of sentence that he received in the context of the 2024 criminal matter, whether he paid any applicable restitution, whether he received extra job training or higher education, or whether he has a good employment record. While his involvement as a facilitator in the recovery program suggests constructive community involvement, on balance, I do not have enough information indicating that the Individual has demonstrated successful rehabilitation since the 2024 incident, which occurred less than one year ago. The Individual has failed to mitigate the stated alcohol-related criminal behaviors pursuant to mitigating factor (d).

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

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G and J 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 Guidelines G and J concerns set forth in the SSC. Accordingly, the Individual has not demonstrated that restoring 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 restored. 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