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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: January 17, 2025	)	Case No.: PSH-25-0062
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Issued: June 26, 2025

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**Administrative Judge Decision**

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James P. Thompson III, 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 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 late February 2024, the Individual, a clearance holder, reported that a Temporary Order of Protection (TOP) "regarding alleged domestic violence issues" had been placed against him by his wife. Exhibit (Ex.) 6 at 25. The narrative portion of the TOP alleged, in addition to violent acts, that "when [the Individual] is home[,], he stays drunk." Ex. 8 at 54.

The Individual was, consequently, asked to complete a Letter of Interrogatory (LOI), which he signed and submitted in July 2024. Ex. 7. Two months later, the Individual underwent a psychological evaluation with a DOE-consultant psychologist (DOE Psychologist). Ex. 9. The Individual submitted to a phosphatidylethanol (PEth)<sup>2</sup> test in conjunction with the psychological evaluation. *Id.* at 64. The DOE Psychologist issued a report (Report) of her findings and concluded that pursuant to the *Diagnostic and Statistical Manual of Mental Disorders—Fifth Edition, Text*

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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> "PEth accumulates when ethanol binds to the red blood cell membrane" and "reflects the average amount of alcohol consumed over the previous [twenty-eight to thirty] days as red blood cells degrade and enzymatic action removes PEth." Ex. 9 at 64.

*Revision (DSM-V-TR)*, the Individual met sufficient criteria for a diagnosis of Alcohol Use Disorder (AUD), Moderate, without adequate evidence of rehabilitation or reformation. *Id.* at 67.

The local security office (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 Guideline G (Alcohol Consumption) 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.

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, the Individual testified on his own behalf and presented the testimony of two witnesses. The LSO presented the testimony of the DOE Psychologist. The Individual submitted nineteen exhibits, marked Exhibits A through S.<sup>3</sup> The LSO submitted eleven exhibits marked Exhibits 1 through 11.

## **II. Notification Letter**

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 . . . spouse abuse . . . or other incidents of concern”; “habitual . . . consumption of alcohol to the point of impaired judgment, . . .”; and “diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder.” *Id.* at ¶ 22(a), (c)–(d). Under Guideline G, the LSO alleged that:

1. The DOE Psychologist concluded that the Individual meets sufficient diagnostic criteria for a diagnosis of AUD, Moderate, without adequate evidence of rehabilitation or reformation. Ex. 1 at 5.
2. The Individual’s spouse secured a TOP against the Individual, alleging that the Individual “stays drunk” when at home, and during the September 2024 psychological evaluation, the Individual admitted that he “consumed approximately four mixed drinks containing [whiskey] and [cola] over a four-hour period” on the date his wife obtained the TOP. *Id.*
3. The Individual’s PEth test result indicates that he heavily consumed alcohol during the thirty days prior to the administering of the PEth test. *Id.*

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<sup>3</sup> The Individual sent Exhibit T after the hearing, however, it is excluded from the record because it was submitted without leave to do so.

4. The Individual admitted in the LOI response that he “consumes three to five beers . . . or mixed drinks . . . less than three times a month and consumes alcohol to the point of intoxication up to one to two times a month.” *Id.*
5. The Individual stated in his LOI response that “the last time he drank to intoxication” was in early July 2024, when he “consumed about five beers over five hours.” *Id.*

Allegations three and five do not constitute a security concern in themselves, but are rather presented in support of allegations one, two, and four. The LSO’s invocation of Guideline G 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 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**

In February 2024, the Individual’s wife submitted a petition for the TOP to a local court. Ex. 8 at 56. The petition, signed by the wife, and witnessed by a notary public, explicitly states that she “read this Petition and [swears] it to be true to the best of [her] knowledge.” *Id.* The court granted the petition and issued a TOP that same month. *Id.* at 50. The wife later filed a request with the court to dismiss the TOP, and the court dismissed it in March 2024. Ex. 7 at 27. At the hearing, the wife recanted all of the allegations contained in the petition and explained that she filed the petition and made false allegations therein because she “was very angry.”<sup>4</sup> Transcript of Hearing, OHA Case No. PSH-25-0062 (Tr.) at 31. She also testified that the Individual has never had a

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<sup>4</sup> She also testified that she could not recall whether she made statements to the judge at the time he reviewed her petition or whether she was placed under oath. Tr. at 31.

problem with alcohol. *Id.* Accordingly, I afford the wife's testimony minimal weight based on her asserted willingness to submit to a court a sworn statement containing false information.

The record demonstrates that the Individual meets sufficient criteria for a diagnosis of AUD. The DOE Psychologist based her conclusion on her finding that the Individual met four *DSM-V-TR* criteria for the condition. Ex. 9 at 66, 70. First, she concluded that the Individual consumed larger amounts of alcohol over a longer period of time than he intended based on the evidence that he underreported his alcohol consumption. *Id.* at 66. The record demonstrates that the Individual provided vague, contradictory, and inaccurate information regarding his alcohol use. First, in the LOI, he reported that he “do[es] not get so called intoxicated[.]” and he usually stops drinking when he “feels anything” because he “get[s] sick if [he] get[s] intoxicated.”<sup>5</sup> Ex. 7 at 40. He also told the DOE Psychologist that he has only been sick from too much alcohol a couple of times in his life. Tr. at 151. However, he also reported that he consumes alcohol to intoxication up to two times a month. Ex. 9 at 41. These statements are clearly contradictory in light of the Individual's statement in the LOI that he gets sick when he is intoxicated. He also provided vague and contradictory descriptions of the amount of alcohol he regularly consumes. He reported in the LOI that he typically consumes three to five alcohol beverages on each occasion that he drinks. *Id.* at 40, 42; *see also id.* at 38–39 (admitting in the LOI that he consumed between two to three drinks of whiskey and cola when his wife “was gone on the day she got the TOP”). However, he told the DOE Psychologist during the evaluation that his alcohol use is “social,” with the exception of when he has a single beer when mowing the lawn. Ex. 9 at 63. At the hearing, he testified that he would typically consume about three or four beers at a time when mowing the lawn. Tr. at 74. Thus, the Individual underreported the typical amount of alcohol he would consume while mowing the lawn by characterizing his yard work to the DOE Psychologist as a situation where he would only consume a single beer. *See also* Ex. 9 at 64 (the DOE Psychologist reporting that the Individual admitted to the HRP psychologist that he had consumed less than six beers when he last mowed the lawn). The following example of contradictory and inaccurate reporting is more egregious. In response to the DOE Psychologist's question regarding recent alcohol use during the evaluation, the Individual first reported that he had not consumed alcohol in about a month. Ex. 9 at 64. After the DOE Psychologist told him that he would be required to undergo a PEth test, he shifted his answer by saying it could have been about three weeks since he “had some beers.” *Id.* When pressed as to the specific amount, he stated that he could not remember or estimate. *Id.* When pressed further, he stated that he did not consume more than four beers. *Id.* His statements provide evidence of intentional deception or a concerning unwillingness to report accurate information. Furthermore, a week after the evaluation he told his employer's Human Reliability Program (HRP) psychologist a different account of his recent consumption by reporting that he last consumed alcohol while mowing the lawn about a week before he met with the DOE Psychologist in the amount of “less than six beers[.]” *Id.* Thus, he provided a more recent date and

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<sup>5</sup> The DOE Psychologist found it concerning that the Individual could not distinguish between being intoxicated and being sick because she interpreted “sick” to mean nausea or vomiting and therefore that the Individual essentially stated that he would go from sober to being sick, which would indicate he did not have an understanding of when he reached intoxication on the path to feeling sick because generally feelings of intoxication occur before feeling ill. Tr. at 197; *see also id.* at 199 (stating that the Individual's asserted inability to recall how much he consumes could be an indicium of denial).

a potentially greater amount alcohol.<sup>6</sup> Further still, at the hearing, he testified that, immediately after the evaluation and just prior to taking the PEth test, he spoke to his wife who reminded him that he had consumed alcohol just two days earlier—not the single week, and certainly not the three, he reported to the HRP psychologist and DOE Psychologist, respectively. Tr. at 140. He also testified that his wife suggested that he correct his error, which he ultimately decided against because the DOE Psychologist “probably wouldn’t believe [him] anyway.” *Id.*

The result of the PEth test the Individual underwent during the evaluation was 253 ng/mL, significantly above the detection limit of 20 ng/mL. Ex. 9 at 64–65. The DOE Psychologist relied on a physician’s interpretation of the test results to conclude that the Individual had underreported his pattern of alcohol consumption. *Id.* at 65. According to the interpreting physician, the Individual’s result “is generally accepted to indicate heavy drinking consistent with chronic excessive alcohol consumption . . .” *Id.* at 73. The DOE Psychologist opined that the Individual was therefore “drinking heavily almost daily during a time when his alcohol use [was] being scrutinized by his employer and DOE.” *Id.* at 65. The Individual’s contradictory statements and underreporting support the DOE Psychologist’s conclusion that he was consuming more than he intends. Her conclusion is also supported by the fact the Individual reported that he avoids drinking to intoxication because he gets sick while also reporting that he continued to consume alcohol to intoxication twice a month.

Turning to the second criterion for the AUD diagnosis, the DOE Psychologist concluded that the Individual experienced cravings or a strong desire to consume alcohol based on evidence that the Individual knowingly continued to consumed alcohol at a level that produced the high PEth result while his alcohol use was under review by DOE and his employer.<sup>7</sup> *Id.* at 66; *see also* Tr. at 186, 188 (explaining that it is acceptable to rely upon denials and contradictions regarding alcohol use to clinically infer cravings or desire). Third, the DOE Psychologist concluded that the Individual continued to use alcohol despite persistent or recurrent social or interpersonal problems caused by the effects of alcohol. Ex. 9 at 66. This third conclusion is based on the allegations contained in the TOP, the fact the Individual consumed alcohol at the time his wife obtained the TOP, and the fact that he continued to consume alcohol at the same rate thereafter despite being under scrutiny. Tr. at 191. Fourth, the DOE Psychologist concluded that the Individual demonstrated tolerance because he reported that it would take three mixed drinks for him to reach intoxication but denied being intoxicated or “tipsy” after he consumed four mixed drinks on the date his wife obtained the TOP. Ex. 9 at 63; *see* Tr. at 195.

Finally, the DOE Psychologist, in concluding that the Individual met criteria for AUD, relied upon the results of the Minnesota Multiphasic Personality Inventory-3 (MMPI-3) she administered to “aid in the assessment of [the Individual’s] . . . personality structure in order to address the concerns of the DOE.” Ex. 9 at 66. She concluded that the test results evinced “significant underreporting . . .” *Id.* (stating that the Individual “presented himself as remarkably well adjusted to an extent

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<sup>6</sup> He also told the HRP psychologist that he had explained his mistake to the DOE Psychologist after taking the PEth test. Ex. 9 at 64. However, the DOE Psychologist disputed this assertion. She stated that she did not have any additional contact with the Individual after the PEth test. *Id.*

<sup>7</sup> At the time of the evaluation, the Individual had already responded to the LOI and therefore knew that his alcohol use was being scrutinized by DOE. Tr. at 195; *see also* Ex. 7 and Ex. 9.

that is rare in the general population[,] . . . . [and] den[ied] some minor faults and shortcoming that most people acknowledge”).

The DOE Psychologist recommended that the Individual engage in twelve months of abstinence and work-administered random alcohol breath tests and monthly PEth testing over the same period to demonstrate adequate evidence of rehabilitation or reformation from the AUD. *Id.* at 67–68. She also recommended participating in Alcoholics Anonymous (AA) or a similar program, in-person, with a sponsor. *Id.* at 68.

After the evaluation, the Individual attended AA from December 2024 to the hearing date in May 2025 at the typical rate of three or more times per week. Tr. at 202; Ex. A at 2–4; Ex. Q. He also submitted several PEth test results which cover November 2024 through May 2025. Exs. C–G (both December and January are reflected in Ex. E), R. All test results were negative, except for the first test, the results of which were inconclusive due to “drug/chemical interference with the assay.” Ex. C. He testified that he started abstaining in October 2024 because he was “told not to drink[.]” Tr. at 75, 78.

The Individual testified that he had been working the AA Steps with his sponsor but had not completed the first step because he does not agree that he is powerless over alcohol. *Id.* at 81, 100. He testified that he was different from the other AA participants because he did not share their “horror stories.” *Id.* at 78. The Individual resolutely denied ever having an alcohol problem. *Id.* at 80, 98. He testified that he will not consume alcohol again because he wants to correct the appearance that he has a problem. *Id.* at 73–74, 75, 99.

After receiving the Report, the Individual met with a licensed alcohol and drug abuse counselor (Counselor) in January 2025 who, at their second meeting, administered an alcohol assessment. *Id.* at 84, 120–21. The assessment included an Alcohol Use Disorders Identification Test (Audit). *Id.* at 120–21 (the Counselor testifying that the short, easy Audit “zeros in on how much drinking takes place” without reference to why it takes place), 122; *see also* Ex. R. The Counselor testified that the Individual’s Audit score of three out of a possible forty is “not indicative of alcohol use disorder.” Tr. at 122. After the assessment, the Counselor concluded that the Individual did not provide evidence of AUD. *Id.* (testifying that his opinion was based on the low Audit score and the fact that the Individual had not been consuming alcohol at the time of the assessment). The Counselor also testified that diagnosing the Individual was not important to “make progress on [the Individual’s] concerns.” *Id.* at 129. Similarly, the Counselor did not think it important to know, generally, how much alcohol his clients, such as the Individual, consume, but rather “whether or not they’re choosing alcohol in a way that fits with their values.” *Id.* at 139. He testified that the Individual improved during their treatment sessions together, which focused on stress management and “address[ing] the skills he needed to manage his life different[ly].” *Id.* at 126. At the time of the hearing, the Individual had completed eight sessions between January 2025 and May 2025. Ex. H at 21–22. The Counselor also testified that the Individual’s vague or contradictory reporting of alcohol use can be explained by the fact that the Individual honestly does not track consumption.<sup>8</sup>

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<sup>8</sup> When asked to consider whether the Individual had been deceptive in reporting his alcohol use by omitting the fact that he had consumed alcohol two nights before his evaluation with the DOE Psychologist, the Counselor stated that the Individual’s conduct was reasonable because the date the Individual last consumed alcohol is “an insignificant detail to remember . . . .” in relation to the demands and stress of his career. Tr. at 147. The Counselor further testified

Tr. at 146. Lastly, the Counselor opined that a program like AA can be effective for people if they believe in the principles of the program or if the principles, such as powerlessness against alcohol, resonate. *Id.* at 124.

A review of the Audit and the Individual's responses thereto demonstrate that the Individual did not report the same level of consumption that he reported to the DOE Psychologist, in the LOI, or during the hearing. For example, in the Audit, the Individual stated that he had consumed alcohol monthly or less over the last year prior to beginning his abstinence. Ex. R at 4. However, the record is clear that he admitted consuming alcohol more frequently than monthly. *See supra* p. 4. Furthermore, in response to the question whether a "doctor or another health worker" had been concerned and suggested he "cut down" on alcohol consumption, the Individual answered "No." Ex. R at 4. That response is false because the Individual only sought out the Counselor because the DOE Psychologist reported concern about his alcohol consumption, diagnosed him with AUD, and provided recommendations including abstinence from alcohol. *See supra* pp. 5–6.

I find the DOE Psychologist's opinion more persuasive than the Counselor's opinion given the DOE Psychologist's reasoned application of the *DSM-V-TR* diagnostic criteria and the conclusions and inferences she drew from the PEth results and the Individual's failure to provide accurate, candid information. By contrast, the Counselor did not attempt to ascertain the level of the Individual's alcohol use, and, to the extent he did, he received inaccurate information that he accepted at face value when, for example, administering the Audit..

At the hearing, the DOE Psychologist opined that the Individual had not completed her treatment recommendations or demonstrated rehabilitation or reformation despite his seven months abstinence, counseling, and participation in AA. She based her conclusion on the following factors. First, he had not been abstinent nor attended AA for the recommended twelve months, which would have provided confidence in his recovery. Tr. at 202–03 (explaining that her conclusion was also informed by his "guardedness and . . . inconsistencies in his reporting . . ."). Second, his participation in AA was not going to "change or help him . . . internalize [or] understand his alcohol use or tendency toward addiction . . ." because he does not "cognitively believe he has a problem with alcohol . . ." *Id.* at 214. Consequently, she opined that he had a low to moderate risk of relapse. *Id.* at 206.

## 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;

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that "ultimately what's important in this word are the people we love and that we care about, and a lot of these other details don't matter so much." *Id.* I find this rationale dubious, and it does not address the fact that the Individual had the chance to correct the record when, if he is to be believed, his wife informed him of the mistake.

- (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.

I find that none of the above mitigating factors apply to resolve the Guideline G concerns. First, I find that ¶ 23(a) does not apply because that mitigating condition is based on the passage of time, infrequency of the conduct, or unusual circumstances under which the conduct occurred such that the concerning conduct is unlikely to recur. None of the elements in ¶ 23(a) are met. I conclude, based on the record, including the DOE Psychologist's opinion, that the Individual's diagnosis of AUD, Moderate, is not rehabilitated or reformed, and the Individual is at low to moderate risk of relapse. Thus, I do not find it unlikely that the Individual's concerning alcohol consumption will recur based on the passage of time. Similarly, the frequency of the Individual's alcohol use at the time he was still engaging in consumption does not demonstrate it is unlikely to recur. Lastly, there is no evidence to demonstrate that the circumstances surrounding his consumption were unusual. Accordingly, ¶ 23(a) does not apply to resolve the Guideline G concerns.

I further conclude that that ¶ 23(b), ¶ 23(c), and ¶ 23(d) do not apply to resolve the concerns for the following reasons. The Individual has not accepted his diagnosis of AUD or acknowledged that habitual alcohol use has presented a problem in his life. Furthermore, the record is clear that while the Individual is participating in a counseling program, it is not focused on addressing his AUD or habitual consumption of alcohol to the point of impairment, and the Counselor does not endorse the diagnosis of AUD. Further still, there is no dispute that he has not successfully completed a treatment program or aftercare. Additionally, although the Individual is attending AA, he does not see a benefit in it other than meeting the recommendation of the DOE Psychologist, and the DOE Psychologist established that his failure to accept his problem with alcohol prevents him from internalizing the intended benefit of participation. Therefore, even though the Individual has presented evidence that he has remained abstinent for approximately seven months, it is less than the recommended year, and he has not done so in accordance with the DOE Psychologist's treatment recommendations. Accordingly, I conclude that the Individual has not resolved the Guideline G concerns.

## **VI. Conclusion**



For the reasons set forth above, I conclude that the LSO properly invoked Guideline G of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the Guideline G 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.

James P. Thompson III  
Administrative Judge  
Office of Hearings and Appeals