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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 23, 2025)	Case No.: PSH-25-0065
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Issued: July 25, 2025

Administrative Judge Decision

Phillip Harmonick, 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 2015, the Individual signed and submitted a Questionnaire for National Security Positions (QNSP) as part of seeking DOE access authorization. Exhibit (Ex.) 10 at 153.² A background investigation as part of the adjudication of the Individual's eligibility for access authorization revealed that the Individual was arrested as a minor for bringing a knife to school. *Id.* at 174–75, 188–89. The Individual was subsequently granted access authorization.

On May 21, 2024, the local security office (LSO) received a personnel security information report (PSIR) indicating that the Individual had been arrested and charged with domestic violence-related offenses (Domestic Violence). Ex. 5 at 27–28. Information from the Individual included in the PSIR indicated that the Individual and his girlfriend (Girlfriend) had engaged in an altercation and that she alleged that the Individual "had a gun." *Id.* at 28. The LSO subsequently issued the Individual a letter of interrogatory (LOI) concerning the circumstances of his arrest. Ex. 6. In his

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.

response to the LOI, the Individual indicated that he had consumed ten to twelve alcoholic beverages prior to the altercation. *Id.* at 39. The Individual also indicated that he consumed alcohol to intoxication approximately twice monthly. *Id.* at 44.

On September 26, 2024, the Individual met with a DOE-contracted psychologist (DOE Psychologist) for an evaluation. Ex. 8 at 59. Following the evaluation, the DOE Psychologist issued a report of the evaluation (Report) in which she opined that the Individual binge consumed alcohol to the point of impaired judgment. *Id.* at 64. She additionally concluded that the Individual had an emotional, mental, or personality condition that could impair his judgment, reliability, stability, or trustworthiness based on his “deficits in distress tolerance and self-management in relationships.” *Id.*

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 7–9. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines G, I, and J of the Adjudicative Guidelines. *Id.* at 5–6.

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 ten exhibits (Ex. 1–10). The Individual submitted seventeen exhibits (Ex. A–Q).³ The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-25-0065 (Tr.) at 3, 12. The LSO offered the testimony of the DOE Psychologist. *Id.* at 3, 82.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as the first basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 5. “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 cited the Individual’s May 2024 arrest after having consumed alcohol and alleged that the Individual binge consumed alcohol to the point of impaired judgment.⁴ Ex. 1 at 5. The LSO’s allegations that the Individual engaged in alcohol-related incidents away from work and binge consumed alcohol to the point of impaired judgment justify its invocation of Guideline G. Adjudicative Guidelines at ¶ 22(a), (c).

³ The Individual submitted Ex. A–O as a single PDF. References to Ex. A–O will cite to the pages therein in the order in which they appear. The Individual submitted Ex. P–Q as a separate PDF. Citations to Ex. P–Q will restart at 1 and refer to the pages in the order in which they appear.

⁴ The SSC also cited to several facts regarding the Individual’s self-described alcohol consumption and the results of alcohol testing conducted at the request of the DOE Psychologist which, while informing the allegation that the Individual binge consumed alcohol to the point of impaired judgment, do not present security concerns in and of themselves. Accordingly, while I consider these facts as they pertain to the Individual’s alleged binge consumption of alcohol to the point of impaired judgment, I will not address the allegations as discrete security concerns.

The LSO cited Guideline I (Psychological Conditions) of the Adjudicative Guidelines as another basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 5–6. "Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline." Adjudicative Guidelines at ¶ 27. The SSC cited the DOE Psychologist's opinion that the Individual's "clinically concerning deficits in distress tolerance and self-management in relationships" constituted an emotional, mental, or personality condition that could "impair his judgment, reliability, stability, or trustworthiness." Ex. 1 at 5–6. The LSO's invocation of an opinion by a duly qualified mental health professional that the Individual has a condition that may impair his judgment, stability, reliability, or trustworthiness justified its invocation of Guideline I. Adjudicative Guidelines at ¶ 28(b).

The LSO cited Guideline J (Criminal Conduct) of the Adjudicative Guidelines as the final basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 6. "Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations." Adjudicative Guidelines at ¶ 30. The SSC cited the Individual's having been arrested and charged as a minor for possession of a weapon in a school and his May 2024 arrest and charges for Domestic Violence. Ex. 1 at 6. The LSO's citation to the Individual having been arrested and charged with criminal conduct justifies its invocation of Guideline J. Adjudicative Guidelines at ¶ 31(b).

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 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

A. Individual's Alleged Criminal Conduct

In 2012, the Individual was arrested for possessing a weapon at school after a knife with a 3.5-inch blade fell out of his pocket.⁵ Ex. 10 at 174, 188–89. The Individual was academically disciplined but was not subject to any criminal penalties as a result of the offense. *Id.* at 162, 174–75.

The Individual began a relationship with the Girlfriend in 2021. Ex. 8 at 61. According to the Individual, the Girlfriend engaged in infidelity on numerous occasions leading to conflict and his use of alcohol to cope with the relationship difficulties. *Id.* at 60–61. The Individual claimed that he ended the relationship numerous times, only to renew the relationship after harassment and aggressive behavior by the Girlfriend. *Id.* at 61.

On May 20, 2024, the Individual and his Girlfriend consumed alcohol, and the Individual confronted her over messages she had sent to another person which led him to believe that she was cheating on him again. Ex. 6 at 39; Ex. 8 at 59. The Individual and his Girlfriend went to separate rooms for several hours and the Individual continued to consume alcohol, ultimately consuming ten to twelve alcoholic beverages and becoming intoxicated. Ex. 6 at 39, 44; Ex. 8 at 59. Eventually, the Individual entered the room in which his Girlfriend was present to eat, and they began arguing in the presence of the Girlfriend's minor child. Ex. 8 at 59–60. The argument escalated and the Individual's Girlfriend called the police who arrested the Individual. Ex. 6 at 39; Ex. 7 at 54–55. The Girlfriend alleged that the Individual had left the room during the argument “to get his gun.” Ex. 8 at 59–60; *see also id.* at 60 (indicating that law enforcement officers seized the Individual's firearm). The Individual denied that he had retrieved his firearm during the argument and instead alleged that his Girlfriend had kicked him and that he had thrown a plate of food at her. Ex. 8 at 59–60; Tr. at 22 (denying in his hearing testimony that he retrieved the firearm).

On or about May 28, 2024, the Individual began voluntarily participating in a year-long domestic violence education class provided by a local government agency. Ex. E at 41. The Individual participated in fifteen weekly sessions of the class, and documentation from the class indicates that the Individual made good progress. *Id.* at 41–42; Tr. at 15. The Individual discontinued the class without completing it after fifteen sessions. Ex. E at 41; Tr. at 29–30.⁶

⁵ In his hearing testimony, the Individual denied that he was arrested for the offense. Tr. at 24–25. In light of law enforcement records collected during the background investigation of the Individual clearly establishing that he was arrested, I do not credit the Individual's testimony. Ex. 10 at 188–89.

⁶ The Individual claimed that he discontinued the class after the charges against him were dropped in December 2024 because he “didn't have a sponsor anymore” and was no longer allowed to participate. Tr. at 29–30. This explanation is inconsistent with the facts. The Individual does not dispute that he began attending the class in May 2024 and attended a total of fifteen weekly classes. *Id.* at 15, 30. A report submitted by the Individual from the local government agency indicated that the Individual had completed fifteen classes as of September 10, 2024. Ex. E at 41. As the Individual stopped attending the class in September 2024, three months before the charges against him were dropped, I do not credit the Individual's claim that the dismissal of the charges against him in December 2024 had anything to do with his discontinuation of the domestic violence education class.

The Domestic Violence charges against the Individual were dismissed in December 2024 by motion of the prosecuting agency due to “lack of complaining witness.” Ex. Q at 10. That same month, the Individual surrendered his firearms pursuant to a restraining order obtained against him by a government agency. Tr. at 64–65. The Individual will be eligible to seek the return of his firearms in December 2025. *Id.* at 66.

The Individual claimed to have entered into a relationship with a new girlfriend with whom he testified he has cohabitated since approximately January 2025. *Id.* at 27–28. According to the Individual, he has had “zero contact” with the Girlfriend since ending that relationship and experiences no significant conflict in his new relationship. *Id.* at 24. The Individual provided no evidence to corroborate his lack of contact with the Girlfriend, the existence of the new relationship, or the absence of conflict therein.

The Individual also submitted several hundred training certificates, most of which were from trainings he completed in early 2025. Ex. H; Ex. I. These trainings related to the Individual’s work for a DOE contractor. *See* Ex. N at 335–36 (describing the Individual’s professional contributions to the DOE contractor and reliability and trustworthiness in the workplace in a letter from a supervisor).

B. Individual’s Alcohol Consumption

1. LOI Response and Psychological Evaluation

In his August 20, 2024, response to the LOI the Individual stated that he used alcohol “unhealthily as a coping mechanism starting around October of 2022,” represented that he consumed two to three alcoholic drinks approximately twice monthly, and noted that “2-3 mixed drinks over multiple hours is enough for [him] to become intoxicated.” Ex. 6 at 43–44. During the psychological evaluation, however, the Individual told the DOE Psychologist that he usually consumed “one to two cocktails” weekly from 2022 until the May 20, 2024, dispute with his Girlfriend and that he had “simply used alcohol to cope on [that] one occasion.” Ex. 8 at 60–61.

In his response to the LOI, the Individual denied having consumed any alcohol since his May 20, 2024, arrest. Ex. 6 at 44; *but see* Tr. at 55, 71 (admitting at the hearing that this statement was inaccurate and that he consumed alcohol at a housewarming party on or about May 24, 2024). During the psychological evaluation, the Individual told the DOE Psychologist that he had consumed alcohol at two parties since his response to the LOI. Ex. 8 at 61. The Individual reported to the DOE Psychologist that he had consumed four to six glasses of wine at one of the parties in September. *Id.*; *see also id.* (reflecting an estimate by the DOE Psychologist that the Individual consumed up to fourteen glasses of wine at one of the parties based on his account of the number of guests and containers of wine consumed).

At the request of the DOE Psychologist, the Individual provided a sample for a Phosphatidylethanol (PEth)⁷ test at a Labcorp facility which utilized a chain-of-custody protocol

⁷ 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. 8 at 62, 75–76.

in handling the sample collected. *Id.* at 74. The PEth test was positive at 431 ng/mL. *Id.*; *see also id.* at 61 (indicating that the Individual told the DOE Psychologist that the results of the PEth test “would look bad” after learning that he would be tested). According to a medical doctor (MD) who reviewed the results of the test, studies have found PEth levels comparable to the Individual’s consistent with consumption of “5 drinks/day most days of the week.” *Id.* at 76; *see also* William Ulwelling & Kim Smith, *The PEth Blood Test in the Security Environment: What it is; Why it is Important; and Interpretative Guidelines*, J. OF FORENSIC SCI., July 2018 at 4 (journal article cited by the MD listing estimated correlations between PEth levels and alcohol consumption based on research studies, including a recommendation that 20 ng/mL be used as the basis for a positive PEth test representing at least moderate alcohol consumption in the past month and citing to a study finding that an average PEth level of 499 ng/mL correlated to consumption of 3.6 to seven alcoholic drinks daily among a group of alcohol-dependent adults) (Journal Article).

As part of the psychological evaluation, the DOE Psychologist considered whether the Individual binge consumed alcohol to the point of impaired judgment. Ex. 8 at 59. The DOE Psychologist identified two possible definitions of binge drinking, the first of which – “consuming alcohol to the point that a markedly higher level of intoxication is achieved than what the employee usually experiences” – was not attributed to any source and the other – consumption of “five or more servings of alcohol on one occasion for men” – was from the Substance Abuse and Mental Health Services Administration (SAMHSA). *Id.*; *but see* NATIONAL INSTITUTE ON ALCOHOL ABUSE & ALCOHOLISM, ALCOHOL’S EFFECTS ON HEALTH (2025), *available at* <https://www.niaaa.nih.gov/alcohols-effects-health/alcohol-drinking-patterns> (last visited Jun. 10, 2025) (defining binge drinking for men as consumption of “five or more drinks . . . in about two hours” as compared to “heavy drinking” which includes “five more drinks on any one day” regardless of the time within which the drinks are consumed). Based on the Individual’s admitted binge drinking during the May 20, 2024, altercation with his Girlfriend, the DOE Psychologist’s inference that the Individual engaged in binge drinking at one or both of the parties he attended in September 2024, and the inconsistency between the elevated results of the PEth test and the Individual’s self-reported history of mostly moderate alcohol consumption, the DOE Psychologist opined that the Individual binge consumed alcohol to the point of impaired judgment. Ex. 8 at 61, 63–64.

In her Report, the DOE Psychologist recommended that the Individual demonstrate rehabilitation or reformation by attending a three-month inpatient alcohol treatment program followed by an intensive outpatient program for alcohol-related treatment for an additional three to nine months. *Id.* at 64. She further recommended that the Individual demonstrate twelve months of abstinence from alcohol through monthly PEth testing. *Id.*

2. Individual’s Claimed Abstinence from Alcohol and Treatment

The Individual provided samples for PEth testing on November 15, 2024, January 17, 2025, February 27, 2025, March 29, 2025, April 25, 2025, and May 20, 2025. Ex. B at 7, 11, 15, 19, 23; Ex. P at 3–4. The November 2024 and January 2025 tests detected PEth at 12 ng/mL and 13 ng/mL, respectively, which the health organization that reported the results of the tests indicated was indicative of “[a]bstinence or light alcohol consumption.” Ex. B at 15; Ex. P at 4. Each of the other tests was negative for traces of alcohol consumption. Ex. B at 7, 11, 19, 23.

The Individual testified at the hearing that he began attending Alcoholics Anonymous (AA) meetings twice weekly at some point in late 2024 following his evaluation by the DOE Psychologist and that he had obtained an AA sponsor. Tr. at 16, 30, 73. The Individual provided pictures of pages from several notebooks with handwritten dates, times, and groups corresponding to AA meetings the Individual claimed to have attended and signatures from unknown individuals next to each entry. Ex. C at 27–37. In the absence of testimony, affidavits, or other sources of evidence from witnesses with knowledge of the Individual’s AA participation and attendance, the existence of his AA sponsor, and the identities of the persons who signed the notebook pages, the Individual has not brought forth sufficient evidence to factually establish his AA attendance and sponsorship.

The Individual also testified that he participated in an outpatient substance abuse treatment program (Outpatient Program). Tr. at 16. The Individual stated that the Outpatient Program had focused on helping participants in developing different activities than consuming alcohol to occupy time, identifying triggers, and building a supportive community. *Id.* at 42–43. The only evidence that the Individual provided to support his claimed attendance of the Outpatient Program was an unsigned letter, purportedly authored by a psychologist, which did not identify the author’s role with the Outpatient Program. Ex. N at 337; *see also* Tr. at 75 (Individual testifying that he “believe[d]” he knew the author of the letter and that he “believe[d] that’s one of the counselors [] that [he] work[s] with” but he was not sure because “there’s multiple counselors, and they’re constantly revolving”). The letter stated that the Individual had attended the Outpatient Program “two nights per week (Monday and Thursday)” since March 2025 and that he “had very good attendance and active participation.” Ex. N at 337; *but see* Tr. at 42, 74 (testimony of Individual that the Outpatient Program was held “every Tuesday and Thursday” and that his participation started “[m]aybe in January”); Tr. at 76 (testimony of the Individual that “we do an intake every Tuesday and Wednesday”).

The Individual testified that he last consumed alcohol in September 2024. Tr. at 18. He identified his new romantic partner, his family, members of his church, his AA sponsor, and his fellow AA members as his support system. *Id.* at 44. However, none of these purported sources of support testified at the hearing or submitted written statements corroborating the Individual’s testimony.

3. *Evaluation by the Individual’s Psychologist*

On February 13, 2025, the Individual met with a psychologist (Individual’s Psychologist) for a psychological evaluation. Ex. L at 327. The Individual’s Psychologist conducted a clinical interview of the Individual, administered several psychological tests, including a Personality Assessment Inventory (PAI), and reviewed records provided to her by the Individual. *Id.* In his responses to the PAI, the Individual reported “NO significant problems with alcohol . . . abuse or dependence.” *Id.* at 329 (emphasis in original). The Individual also completed the Alcohol Use Disorders Identification Test (AUDIT), the results of which the Individual’s Psychologist concluded “were within normal limits.” *Id.* at 330.

During the clinical interview portion of the evaluation, the Individual claimed that the DOE Psychologist had told him that the facility to which she referred him for the September 2024 PEth

test “had multiple unreliable, contaminated, and inaccurate sampling [sic].” *Id.*; *see also* Tr. at 18–19, 72 (reiterating this claim at the hearing and testifying that he believed that the September 2024 PEth test was flawed because he did not consume alcohol as heavily as the test showed); Tr. at 93 (testimony of the DOE Psychologist denying that she made this statement). The Individual also told the Individual’s Psychologist that he had tried to comply with the DOE Psychologist’s recommendations, but that he did not present sufficiently serious alcohol-related symptoms in an intake assessment to be admitted for treatment at an inpatient facility. Ex. L at 330; *but see* Tr. at 17 (testifying at the hearing that he “made the decision to do the outpatient” because he believed that inpatient treatment “would interfere with [his] job”). Therefore, he told the Individual’s Psychologist that he had enrolled in the Outpatient Program and would move “into a step-down program after completion of the [O]utpatient [] [P]rogram (February 27th).” Ex. L at 330–31; *but see* Ex. N at 337 (indicating that the Individual began participating in the Outpatient Program in March 2025, after the evaluation by the Individual’s Psychologist, in a letter attributed to a psychologist). The Individual also reported to the Individual’s Psychologist that he was attending AA meetings every other day and intended to continue to do so. Ex. L at 331. The Individual’s Psychologist reviewed the results of the Individual’s November 2024 and January 2025 PEth tests, which she understood to be “within normal parameters.” *Id.* Based on the aforementioned information, the Individual’s Psychologist opined that the Individual was “in remission” from an alcohol use disorder she incorrectly believed the DOE Psychologist to have diagnosed. *Id.* at 330.

4. Updated Opinion of the DOE Psychologist

The DOE Psychologist opined at the hearing that the Individual had not demonstrated rehabilitation or reformation from his binge consumption of alcohol to the point of impaired judgment. Tr. at 87. Her reasons for this opinion were that the Individual had not demonstrated twelve months of abstinence from alcohol as she recommended,⁸ he had completed at most three months of the Outpatient Program as of the date of the hearing based on the letter purportedly authored by a treatment provider with the Outpatient Program, and she was concerned about “discrepancies” between the Individual’s account of the Outpatient Program and the information reflected in the letter attributed to a treatment provider. *Id.* at 87–89. The DOE Psychologist estimated that the Individual’s risk of relapse into maladaptive alcohol use was moderate. *Id.* at 103.

⁸ The DOE Psychologist did not credit the Individual with abstinence from alcohol for all of the months covered by his PEth testing because she understood the results of the January 2025 PEth test as providing evidence that the Individual consumed alcohol in the preceding month. Tr. at 90; *but see* Tr. at 114–15 (admitting on cross examination that she was “not a chemist or a medical doctor” and that whether a PEth test result greater than 10 ng/mL but less than 20 ng/mL could be attributed to exposure to naturally occurring alcohol other than beer, wine, spirits, etc. was “outside of [her] area of expertise”). Although, for the reasons explained *infra*, I do not concur with the DOE Psychologist’s conclusion based on the January 2025 PEth test, the DOE Psychologist would not have found the Individual to have demonstrated a sufficient period of abstinence even if she understood all of the Individual’s PEth tests to be negative. *Id.* at 137–38. Therefore, the DOE Psychologist’s opinion is unaffected by my conclusion concerning the January 2025 PEth test.

C. DOE Psychologist's Opinion Concerning an Emotional, Mental, or Personality Condition

During the psychological evaluation with the DOE Psychologist, the Individual indicated that he began dating the Girlfriend in 2021. Ex. 8 at 61. The Individual described the relationship as tumultuous, with numerous instances of cheating on the part of the Girlfriend, “escalating conflict” related to her infidelity, and “aggressive outbursts” by the Girlfriend when he would break up with her. *Id.* The Individual alleged that she had vandalized his vehicle, broken into his home, harassed him, and followed him after he moved to another area in an attempt to separate from her. *Id.* The Individual also represented that the Girlfriend had once punched him in the eye while intoxicated, leading him to call the police. *Id.* The Individual characterized himself as “passive” in the relationship and reconciling with the Girlfriend after each breakup and incident “always hoping that it would get better . . .” *Id.*

The Individual told the DOE Psychologist that he had permanently ended the relationship with the Girlfriend after his May 2024 arrest. *Id.* at 62. He represented that he had never had similar problems in another romantic relationship and “enforced the rules” at work. *Id.* The Individual told the DOE Psychologist that he was “much happier” after breaking up with the Girlfriend and that he had healthy relationships and hobbies. *Id.*

Based on the aforementioned information, the DOE Psychologist concluded that the Individual had an emotional, mental, or personality condition that could impair his judgment, reliability, stability, or trustworthiness. *Id.* at 64. The DOE Psychologist stated that this “condition” was based on the Individual having “shown clinically concerning deficits in distress tolerance and self-management in relationships.” *Id.* She recommended that the Individual participate in psychotherapy to address his “thoughts, emotions, and behaviors” related to the Girlfriend, learn to establish boundaries and cope with distress, and understand “the impact of alcohol abuse on relationships and self-regulation.” *Id.*

In the evaluation with the Individual's Psychologist, the Individual denied any emotions, behaviors, or other symptoms indicative of psychological problems. Ex. L at 328–29. The Individual's responses on the PAI, as interpreted by the Individual's Psychologist, reflected a normal profile devoid of indicia of significant problems. *Id.* at 329. The Individual's Psychologist further concluded, based on information provided to her by the Individual, that he “no longer has contact with [the Girlfriend] and has been able to establish and maintain a new, stable relationship lasting for several months [.]” *Id.* at 330. Based on the foregoing, the Individual's Psychologist concluded that the Individual did “not meet criteria for any specific mental health disorder.” *Id.*

The Individual testified at the hearing that he enrolled in a dialectical behavior therapy (DBT) class which taught him strategies to manage relationships and establish boundaries constructively. Tr. at 26, 38. The Individual claimed to have attended the DBT class weekly for eight weeks. *Id.* at 38. The Individual offered as examples of his improved conflict-management skills anecdotes in which he claimed to have “extend[ed] . . . a helping hand” to a person in an AA meeting who was “lashing out” and to have assured his father as to his own wellbeing when he found his father's efforts to “watch over [him]” following his arrest to be overbearing. *Id.* at 39, 41. According to the Individual, he also journals and paints to manage emotions and express himself and is

communicative with his new romantic partner. *Id.* at 26. However, the Individual presented no evidence from the DBT class to substantiate his attendance or progress therein.

The DOE Psychologist testified at the hearing that she inferred that the Individual displayed a pattern of failing to establish boundaries in his relationship with his Girlfriend and of losing control of his emotions in stressful situations with her. Tr. at 104–05; *see also id.* at 139 (stating that she was unaware of the Individual having experienced any clinically significant impairments with respect to boundary setting and distress tolerance other than those with the Girlfriend). She opined that the Individual ending his relationship with the Girlfriend, if true, would be a positive development but that she doubted his ability to establish boundaries and recognize problematic behaviors in others. *Id.* at 106. She stated that the Individual’s self-described DBT class did not adequately address the concern because she recommended psychotherapy that would provide a more personalized application of techniques to the Individual’s life circumstances. *Id.* at 107. She stated that the Individual’s self-described behavior towards the person who “lashed out” was not indicative of boundary setting but rather the passive, pacifying behavior that she found problematic. *Id.* at 108. She opined that the Individual still had an emotional, mental, or personality condition that could impair his judgment, reliability, stability, or trustworthiness, and that his inability to manage his emotions could leave him at risk of relapsing into problematic alcohol consumption. *Id.* at 110.

V. ANALYSIS

A. 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.

Before assessing the applicability of the mitigating conditions, I will first address two aspects of the record related to PEth testing. First, I find the result of the September 2024 PEth test the Individual underwent following the psychological evaluation with the DOE Psychologist to be reliable. There is no basis in evidence, whatsoever, to support the Individual's speculation that the result of the September 2024 PEth test was erroneously high. I have no reason to doubt that Labcorp is a reputable diagnostic laboratory, and the PEth test result indicates that a chain-of-custody protocol was applied to maintain the integrity of the sample that was tested. The Individual's self-serving testimony that he consumed less alcohol in the three to four weeks prior to the sample collection than the PEth test indicated is grossly insufficient to overcome the objective evidence provided by the PEth test result.

Turning to the Individual's November 2024 and January 2025 PEth tests, which were positive at 12 ng/mL and 13 ng/mL, I find that these results are consistent with the Individual's self-described abstinence from alcohol. The interpretive guidance provided on the Individual's PEth tests indicates that PEth levels of at least 10 ng/mL, but less than 20 ng/mL, are consistent with "abstinence or light alcohol consumption." Ex. B at 15; Ex. P at 4. However, the Journal Article upon which the MD and DOE Psychologist relied in interpreting the Individual's September 2024 PEth test indicates that, while PEth is "relatively insensitive to incidental ethanol exposure," false positives attributable to ethanol other than that in alcoholic beverages are possible and that a PEth threshold of 20 ng/mL "has been established by a consensus among laboratories" to "protect against false positives." Journal Article at 2–3. Considering the information in the Journal Article that PEth levels below 20 ng/mL are not sufficient to confidently establish that a person consumed alcoholic beverages, and the endorsement of the validity of the Journal Article by the LSO, the MD, and the DOE Psychologist, I find that the results of the November 2024 and January 2025 PEth tests are consistent with the Individual's self-described abstinence from alcohol.

Turning to the first mitigating condition, I find that there is insufficient information in the record for me to confidently infer how recently, frequently, or under what circumstances the Individual binge consumed alcohol or engaged in aggressive behavior while intoxicated. The discrepancy between the Individual's account of his alcohol consumption to the DOE Psychologist and the September 2024 PEth test result strongly suggests that he is not a reliable narrator of his alcohol consumption. While the Individual has undergone PEth testing to show that he may have abstained from alcohol since at least October 2024, albeit with a gap in testing from November 15, 2024, to January 17, 2025, during which the Individual may have consumed alcohol, I have no basis to reliably conclude when the Individual first binge consumed alcohol, how often he engaged in binge drinking, or when his last episode occurred.

Likewise, while the Individual's May 2024 arrest was an unusual occurrence in his life, I cannot say that the conflict following alcohol consumption that led to the arrest was unusual. The Individual has provided no evidence to corroborate his testimony that he broke up with the Girlfriend, that he has a new girlfriend, or that his relationship with the alleged new girlfriend does not involve such altercations. In light of the absence of record evidence to support that the Individual's binge drinking and conflict following alcohol consumption occurred long ago, infrequently, or under unusual circumstances, I cannot find the first mitigating condition applicable. *Id.* at ¶ 23(a).

The Individual has acknowledged his maladaptive alcohol use. However, he has not provided reliable evidence to show that he has taken meaningful action to resolve this problem. As indicated above, there is insufficient evidence in the record for me to substantiate the Individual's claimed AA participation or to establish that his participation has been active and engaged. The purported letter from a representative of the Outpatient Program submitted by the Individual also lacks indicia of authenticity, and the letter's account of the days on which classes were held did not match the Individual's testimony, calling into substantial question the Individual's participation. Even if the Individual had demonstrated his participation in the Outpatient Program convincingly, the Individual has not submitted any documentation of the programming provided by the Outpatient Program nor letters or testimony from persons sufficiently knowledgeable about the details of his participation and progress therein. The author of the letter, who the Individual was unsure that he knew, and who provided no specific details about the Individual's progress and participation, is not such a person.

Even if I was satisfied that the Individual had taken appropriate action to resolve his binge consumption of alcohol, he has not established one year of abstinence from alcohol in accordance with treatment recommendations. Instead, the exact period of his abstinence is in question given the gap in his PEth testing from November 2024 to January 2025, and the DOE Psychologist opined that the Individual had not established a sufficient period of abstinence to demonstrate rehabilitation. Accordingly, I find the second mitigating condition inapplicable. *Id.* at ¶ 23(b).

The third mitigating condition is not applicable because the Individual has not sufficiently established his participation in treatment. Even if he had done so, the Individual's testimony suggested that the Outpatient Program representative who purportedly authored the letter on his behalf was insufficiently familiar with the Individual to offer a meaningful opinion as to his progress. Moreover, the DOE Psychologist opined that the Individual was not taking adequate steps to satisfy her treatment recommendations and that he was at a moderate risk of relapse. Although the Individual received a positive opinion from the Individual's Psychologist, I found the DOE Psychologist's opinion more convincing than that of the Individual's Psychologist. First, the Individual's Psychologist relied on the Individual's account of treatment which his own letter attributed to the Outpatient Program stated did not begin until after his evaluation by the Individual's Psychologist. Additionally, the Individual's Psychologist's conclusion that the Individual had resolved the security concerns presented by his alcohol use after at most four full months of abstinence from alcohol as of the February 2025 evaluation, only three months of which were supported by PEth testing, reflects a substantially less serious assessment of the severity of the Individual's alcohol misuse than the DOE Psychologist's Report or the facts of this case indicate. For these reasons, I find the third mitigating condition inapplicable. *Id.* at ¶ 23(c). The fourth mitigating condition is inapplicable because the Individual does not claim to have completed a treatment program and, in any case, he has not yet established one year of abstinence from alcohol as recommended by the DOE Psychologist. *Id.* at ¶ 23(d).

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

B. 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.

The first two mitigating conditions are inapplicable because the Individual has provided no evidence corroborating his testimony concerning mental-health related treatment that he received to address the DOE Psychologist's findings in the Report. In the absence of any documentation or corroborating testimony showing that the Individual has received treatment, and is complying with treatment recommendations, I cannot find either mitigating condition applicable. *Id.* at ¶ 29(a)–(b).

With respect to the remaining mitigating conditions, the DOE Psychologist opined at the hearing that she could not conclude that the concerning inferences she drew as to the Individual's psychological wellbeing based on his relationship with his Girlfriend were resolved. In contrast, the Individual's Psychologist opined that the Individual did not have any psychological condition, and that the Individual had ended the relationship with the Girlfriend and entered into a stable relationship with a new girlfriend.

I might have accepted the opinion of the Individual's Psychologist if the Individual had provided evidence from witnesses who could confirm that his relationship with the Girlfriend had ended, that the Individual had entered into a healthy new relationship, and that the behaviors the Individual exhibited with respect to the Girlfriend were not present in his other personal relationships. However, the Individual did not do so, and I cannot be certain how much the Individual's Psychologist's positive opinion relied on unsubstantiated claims from the Individual concerning the termination of his relationship with the Girlfriend and healthy new relationship. I must resolve any doubts in favor of national security. Accordingly, given the dearth of information to

corroborate the Individual's account of his changed circumstances and better exercise of judgment in forming personal relationships and establishing boundaries, I find that the Individual has not demonstrated the applicability of the remaining mitigating conditions. *Id.* at ¶ 29(c)–(e).

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

C. Guideline J

Conditions that could 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.

Id. at ¶ 32.

The Individual has repeatedly demonstrated a lack of credibility throughout this process. Among other things, the Individual denied being arrested in 2012 for possession of a weapon in school when law enforcement records showed that he was, claimed that he was prevented from completing the domestic violence education class when the facts suggest otherwise, made highly improbable claims to explain the results of his September 2024 PEth test, and told the Individual's Psychologist that he had completed the Outpatient Program in February 2025 when according to his own testimony he had not started the program at that time. *Supra* notes 5–6; pp. 7–8. While the Individual denied that he committed the alleged acts of Domestic Violence against the Girlfriend, and asserted that his circumstances have changed such that his arrest is unlikely to recur, I do not find the Individual sufficiently credible to accept his representations. In the absence of evidence from witnesses with knowledge of the Individual's personal life, I cannot conclude that the passage of approximately one year since his most recent arrest or the circumstances under which he claims that the arrest occurred indicate that he is unlikely to commit criminal acts in the future. Accordingly, I find the first mitigating condition inapplicable. *Id.* at ¶ 32(a).

The second mitigating condition is irrelevant to the facts of this case because the Individual does not allege that he was pressured or coerced into committing a crime. *Id.* at ¶ 32(b).

The Individual denies that he committed the Domestic Violence alleged by the Girlfriend. While the charges against the Individual were dismissed as a result of the Girlfriend's lack of cooperation with the prosecuting agency, this information alone is insufficient for me to conclude that there is no reliable evidence that the Individual committed the offense. The facts that the Individual admitted that he and his Girlfriend argued after he became intoxicated, the conflict escalated to the point that he threw food at her, law enforcement officers seized a firearm belonging to the Individual, and he is still prohibited from possessing firearms even though the Domestic Violence charges have been dismissed provide at least some circumstantial evidence that the Individual committed the offense. Considering the Individual's lack of credibility, and the absence of evidence to corroborate the Individual's claims as to the Girlfriend's character or their interactions, I cannot find the third mitigating condition applicable. *Id.* at ¶ 32(c).

The Individual has not paid restitution, been sentenced to parole or probation, completed any higher education, or demonstrated constructive community involvement⁹ since his May 2024 arrest. While the Individual has obtained significant job training and over one year has passed since his May 2024 arrest, I find that this evidence of rehabilitation, on balance, is insufficient to mitigate the security concerns presented by the Individual's alleged conduct. *Id.* at ¶ 32(d).

For the aforementioned reasons, I find that none of the mitigating conditions under Guideline J fully resolve the security concerns asserted by the LSO.

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 G, I, and J 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

⁹ The Individual submitted an application to volunteer for a community organization. Ex. K. There is no evidence in the record that the application was accepted or that the Individual ever volunteered for the organization.