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

In the Matter of:	Personnel Security Hearing	)	
		)	
Filing Date:	January 28, 2025	)	Case No.: PSH-25-0074
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		)	

Issued: July 16, 2025

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**Administrative Judge Decision**

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Diane L. Miles, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*. (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

**I. Background**

The Individual is employed by a DOE Contractor, in a position that requires him to hold a security clearance. On May 30, 2024, upon arriving at work, the Individual was randomly selected for alcohol testing, and he underwent two Breath Alcohol Tests (BATs). Exhibit (Ex.) 6 at 22–24.<sup>2</sup> The results of both BATs were positive for alcohol consumption. *Id.* at 23–24.<sup>3</sup>

In August 2024, the Local Security Office (LSO) issued a Letter of Interrogatory (LOI) to the Individual seeking information about the Individual's alcohol consumption. Ex. 7. In the LOI, the Individual reported that, the night before his positive BATs, he consumed three glasses of "moderate pours," of white wine, between 6:30 p.m. and 8:30 p.m. *Id.* at 26–27.

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<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

<sup>2</sup> The exhibits submitted by the 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 the DOE.

<sup>3</sup> On May 30, 2024, the Individual took an "initial test," at 8:18 a.m., the result of which showed his blood alcohol content was 0.25 g/210L. Ex. 6 at 24. At 8:35 a.m., he took a "confirmatory test," the result of which was positive at a level of .021 g/210L. *Id.*

In October 2024, the LSO referred the Individual for an evaluation by a DOE-contractor Psychologist (DOE Psychologist), who conducted a clinical interview of the Individual and issued a report (the Report) of her findings. Ex. 8. On October 8, 2024, as part of the evaluation, the Individual underwent alcohol testing, in the form of a Phosphatidylethanol (PEth) test,<sup>4</sup> the result of which was positive at a level of 27 ng/mL. *Id.* at 59. A medical doctor interpreted the Individual's PEth test result and determined that the Individual consumed, on average, four alcoholic drinks per week during the 30 days preceding the test. *Id.* at 49. Based on her evaluation of the Individual and the Individual's PEth test result, the DOE Psychologist opined that the Individual met sufficient diagnostic criteria in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition – Text Revision (DSM-5-TR)* for a diagnosis of Alcohol Use Disorder (AUD), Mild, without adequate evidence of rehabilitation or reformation. *Id.* at 51.

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

In January 2025, the Individual requested an administrative hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). Ex. 2. The Director of OHA appointed me as the Administrative Judge in this matter. In June 2025, I convened a hearing, pursuant to 10 C.F.R. § 710.25(d), (e), and (g), I took testimony from five witnesses: the Individual, the Individual's personal psychologist (Individual's Psychologist); the Individual's co-worker; the Individual's supervisor, and the DOE Psychologist. *See* Transcript of Hearing, OHA Case No. PSH-25-0074 (Tr.). Counsel for the DOE submitted 10 exhibits, marked as Exhibits 1 through 10. The Individual submitted 20 exhibits, marked as Exhibits A through T.

## II. The Summary of Security Concerns

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

Under Guideline G, “excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual's reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Conditions that could raise a security concern under Guideline G include “alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition . . . ,” and a “diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder.” *Id.* at ¶ 22(b), (d). In invoking Guideline G, the LSO relied upon the DOE Psychologist's opinion that the Individual met sufficient *DSM-5-TR*

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<sup>4</sup> The Report indicates that “PEth accumulates when ethanol binds to the red blood cell members” and reflects “an average amount of alcohol consumed over the previous 28-30 days.” Ex. 8 at 49. “PEth exceeding 20 ng/mL, but below 200 ng/mL,” is evidence of mild to moderate ethanol consumption. *Id.*

criteria for a diagnosis of AUD, Mild, without adequate evidence of rehabilitation or reformation. Ex. 1 at 5.<sup>5</sup> The LSO also cited the results of the Individual's May 2024 BATs, which showed that his BAC was 0.25 g/210L and .021 g/210L, and his admission that he consumed "three glasses of moderate pours of white wine between 6:30 p.m. and 8:30 p.m. the night prior" to the BATs. *Id.* Based on the above-referenced conduct, I find the LSO's security concerns under Guideline G are 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 access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

### IV. Findings of Fact and Hearing Testimony

After his positive May 2024 BATs, the Individual's employer required the Individual to undergo an "alcohol and drug assessment evaluation." Ex. N at 1. In June 2024 the Individual met with an occupational psychologist (Occupational Psychologist) at his place of employment about his alcohol consumption, after which the Occupational Psychologist advised the Individual to abstain from alcohol for a few months and to meet with a Substance Abuse Professional (SAP) at his place of employment. Ex. 7 at 30; Tr. at 56, 86. On June 19, 2024, the Individual was evaluated by the SAP, after which the SAP diagnosed the Individual with Alcohol Intoxication, Without Use Disorder, and recommended that the Individual complete 12 hours of online education related to substance use disorders. Ex. 7 at 30; Ex. N at 1–3. The Individual's employer also required the Individual to undergo drug and alcohol testing at his place of employment. Ex. N at 7–8.<sup>6</sup> During

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<sup>5</sup> The LSO also cited the Individual's October 8, 2024, PEth test result of 27 ng/mL, which suggested that the Individual consumed, on average, "up to four alcoholic drinks a week within 30 days of the test." Ex. 1 at 5. While the result of the Individual's October 8, 2024, PEth test informed the DOE Psychologist's opinion, it does not appear to raise security concerns in of itself and therefore I will not consider it as a discrete security concern.

<sup>6</sup> The Individual submitted evidence he underwent eight BATs, between June 2024 and March 2025, and that the results of these tests were negative for alcohol consumption. Ex. L. The Individual also submitted results of drug

the hearing, the Individual testified that he completed both courses, and that the courses taught him about alcohol's effects on the body and how prevalent alcohol is in society. Tr. at 84–85.

During his October 2024 evaluation with the DOE Psychologist, the Individual reported that after his May 2024 BATs, he consumed “three or four 12-ounce light beers,” once or twice per month. Ex. 8 at 48. He also reported that approximately three weeks before the evaluation, he consumed “2.5 light beers,” and he estimated consuming a total of “six or less beers over the course of the month leading up to [the] evaluation.” *Id.* The DOE Psychologist found that, when compared to his reported alcohol consumption before the evaluation, the Individual's positive PEth test result of 27 ng/mL, as interpreted by the medical doctor, suggested he was either minimizing his alcohol use, or he was in denial about how much he was drinking. *Id.* at 49–50. She also found that the Individual's decision to continue drinking, during a time when his alcohol consumption was under scrutiny by his employer, and after he was encouraged to abstain from alcohol, suggested that alcohol was a problem for him. *Id.* at 50. After the psychological evaluation, the DOE Psychologist diagnosed the Individual with AUD, Mild, without adequate evidence of rehabilitation or reformation. *Id.* at 51. To achieve rehabilitation or reformation from his AUD, Mild, the DOE Psychologist recommended that the Individual abstain from alcohol for a minimum of six months, documented by “PEth tests every two months throughout the period of abstinence.” *Id.* at 51–52. The DOE Psychologist also recommended that the Individual attend “either [Alcoholics Anonymous (AA)], or another evidence-based peer support group (such as SMART Recovery or 12-Step Enhanced Therapy), weekly,” for six months. *Id.* at 52.

In December 2024, the Individual was still consuming alcohol. Tr. at 77. He claimed that he would consume “two to three beverages a couple times a week,” and he would drink “a little bit more during the holidays.” *Id.* On February 3, 2025, after reading the DOE Psychologist's recommendations in the Report, the Individual decided to stop drinking. *Id.* at 49, 95–96. The Individual submitted documentary evidence, to support his testimony, that he underwent PEth testing on March 3, 2025, the results of which were positive at a level of 39 ng/mL. Ex. H; Tr. at 80. The Individual believed that this test was positive because, even though he testified to having stopped drinking on February 3, 2025, there was still alcohol in his system. Tr. at 88. The Individual also submitted evidence he took five additional PEth tests, between March 14, 2025, and June 6, 2025, all of which were negative for alcohol consumption. Ex. I; Ex. J; Ex. K; Ex. Q; Ex. T.

In February 2025, the Individual began attending AA. He submitted attendance sheets indicating that from February 13, 2025, to June 7, 2025, he attended AA meetings four to six times a week. Ex. E; Ex. R; Tr. at 51, 81. As of the hearing, the Individual was on step five of AA's 12-step program. Tr. at 60–61. He explained that he is a perfectionist and participating in AA has taught him to cut himself “a little bit of slack,” and to be less emotional during stressful situations. *Id.* at 52–54. He believed AA was a good fit for him. *Id.* at 64. About two months before the hearing, the Individual obtained an AA sponsor, he testified that he speaks to his sponsor every time he attends an AA meeting. *Id.* at 62, 81. He explained that he made friends through the program, and he has a list of current AA members and chairs that he can use to contact someone to help him

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testing, taken in June 2024, August 2024, November 2024, January 2025, February 2025, and March 2025. Ex. M. The result of each test was negative. *Id.*

work through the program. *Id.* at 55.<sup>7</sup> In April 2025, the Individual began meeting with the Individual's Psychologist, who read the DOE Psychologist's Report, assessed the Individual's ability to manage his alcohol use, and issued a report of his findings. Ex. O; Ex. P. The Individual's Psychologist's report indicated that he concurred with the DOE Psychologist's diagnosis of AUD, Mild, and that the Individual's willingness to continue working through AA suggests progress toward rehabilitation from his AUD, Mild. Ex. P at 3.

During the hearing, the Individual's co-worker testified that he has worked with the Individual since 2010. Tr. at 17–18. He explained that he has never seen the Individual appear to be under the influence of alcohol while at work, and he has never had concerns about the Individual's judgment after having observed the Individual consume alcohol outside of work. *Id.* at 19, 28. The Individual's co-worker was aware the Individual was participating in alcohol treatment, but he could not provide any details of the Individual's treatment, and he did not know whether the Individual intended to consume alcohol in the future. *Id.* at 26–28. The Individual's supervisor testified that after working with the Individual for two and a half years, she had never observed the Individual appear to be under the influence of alcohol at work. *Id.* at 17–19. As for his alcohol treatment, she was aware he was attending AA, but did not know whether the Individual intended to continue consuming alcohol. *Id.* at 45–46.

During the hearing, the Individual testified that it was wrong of him to consume an excessive amount of alcohol the day before he knew he would have to report to work. Tr. at 50–52. He believed his triggers to drink were being in “high stress situations” and “getting too involved in work.” *Id.* at 70. He stated that he sees a therapist weekly, on Fridays. *Id.* at 57, 59; Ex. G. He explained that the therapy sessions are not solely focused on his alcohol use, and that he uses the therapy sessions to discuss his personal values and goals, his work ethic, and to work on becoming a more “balanced” person. Tr. at 57–58, 63, 66–67. He also stated that he does not intend to consume alcohol for the foreseeable future. *Id.* at 50, 65. He explained that he developed a “bond of trust” with his fellow AA members, and if he resumed drinking alcohol, it would lessen their belief in him. *Id.* at 50–51. He intends to continue attending AA, and to continue meeting with his therapist weekly. *Id.* at 65, 71–72, 83. When he is not working, he fills up his day with “healthy activities.” *Id.* at 71. He does not have a written “relapse prevention plan,” but he testified that the concept of relapse is discussed during his AA meetings, and if he had an issue abstaining, he would contact someone on his AA contact list for help. *Id.* at 76, 82. He also stated that he intends to continue undergoing alcohol testing as long as he needs to. *Id.* at 79.<sup>8</sup>

During the hearing, the Individual's Psychologist testified that after reading the DOE Psychologist's Report and listening to the Individual's testimony, he concurred with the DOE Psychologist's opinion, that the Individual had AUD, Mild, at the time of his psychological evaluation with the DOE Psychologist. Tr. at 99–100. He further testified that during his evaluation of the Individual, the Individual showed signs of accepting that he had an alcohol problem, but he perceived that the Individual needed to abstain from drinking and that he needed a program of recovery. *Id.* at 101. He believed that, as of the June 2025 hearing, the Individual's prognosis was “quite good” because he had shown he can abstain from drinking alcohol for a considerable period,

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<sup>7</sup> The Individual submitted sworn statements from his wife, two friends, and two co-workers, and his supervisor, in support of his character and efforts to remain abstinent from alcohol. Ex. A; Ex. B; Ex. C; Ex. D; Ex. F; Ex. S.

<sup>8</sup> After the hearing, the Individual submitted evidence that on June 6, 2025, he underwent PEth testing, the results of which were negative for the presence of alcohol. Ex. T.

and had been working through AA for four months, which were positive signs toward recovery. *Id.* at 101–02, 106–07. He believed the Individual was committed to making significant changes in his life that would “likely mean” that he would abstain from alcohol in the future, but he was still in the process of rehabilitation from his AUD, Mild. *Id.* at 104, 111–12.

The DOE Psychologist testified that after listening to the testimony provided during the hearing and reviewing the Individual’s exhibits, the Individual was not yet rehabilitated or reformed from his AUD, Mild. Tr. at 121. She agreed with the opinion of the Individual’s Psychologist that, as of the hearing, the Individual was still in the process of recovery. *Id.* She did not believe the Individual had received enough treatment for her to have confidence he understood the nature of his alcohol problem and that his problematic alcohol consumption would not resume. *Id.* She explained that during her evaluation, she found that the Individual did not recognize that he had a drinking problem because he was still consuming alcohol. *Id.* at 129–31. Although the Individual followed the SAP’s recommendation to complete two alcohol education courses, the DOE Psychologist testified that, in her experience, those courses are necessary for a person to return to work and do not indicate that a person understands they have a problem with their alcohol consumption. *Id.* at 130–31.

Furthermore, although the Individual testified that he had not consumed alcohol since February 3, 2025, the results of his PEth testing since that date suggested that he was still consuming alcohol during the month of February 2025. Tr. at 121–22. The DOE Psychologist noted that the results of the Individual’s March 3, 2025, PEth test were 39 ng/mL, which was higher than the results of the October 2024 PEth test administered after his psychological evaluation, which was 27 ng/mL, and after the Individual admitted to consuming alcohol before the evaluation. *Id.* at 123. Based on the evidence of the Individual’s PEth testing, the DOE Psychologist determined that the Individual had abstained from alcohol for less than four months. *Id.* at 122. She further testified that the Individual’s prognosis was good because he had been engaged with AA for the past four months, he had the support of his friends and co-workers, and he reported an intention to abstain indefinitely. *Id.* at 127–28.

## **V. Analysis**

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline G include:

- (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment;
- (b) The individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;

- (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

Regarding factor (a) above, the Individual's positive BATs occurred one year before the hearing, and there is no evidence to support that his excessive alcohol consumption preceding the BATs occurred infrequently or under unusual circumstances. Further, the Individual continued to consume alcohol after his positive BATs and as recently as February 2025, four months before the hearing. This is an insufficient amount of time, for the passage of time alone, to mitigate the security concerns related to his alcohol consumption. Finally, the Individual was diagnosed with AUD, Mild, seven months before the hearing, and he has not yet satisfied the DOE Psychologist's treatment recommendations to resolve his AUD. Because the Individual has not yet resolved his AUD, Mild, I cannot conclude that his problematic alcohol consumption will not recur, and it continues to cast doubt on the individual's reliability, trustworthiness, and judgment. Accordingly, I find that the Individual has not mitigated the security concerns under ¶ 23(a).

Regarding factor (b), after the Individual tested positive for alcohol consumption during random BATs at work, in May 2024, he did not believe his alcohol consumption was a problem. Despite the Occupational Psychologist advising the Individual to abstain from alcohol and despite the Individual knowing that his alcohol consumption was being scrutinized by his employer, the Individual continued to consume alcohol. The Individual testified that he did not acknowledge that he had an alcohol problem until after he read the DOE Psychologist's Report, in December 2024. Since December 2024, the Individual has taken actions to overcome his AUD, Mild: he completed four months of AA;; and attended weekly therapy sessions to discuss his personal goals and his emotional triggers to drink alcohol, during the past two months.<sup>9</sup> However, the Individual's positive March 3, 2025, PEth test suggests that he was consuming alcohol after he claimed to have abstained, and he has abstained from alcohol for less than four months. Despite the DOE Psychologist's positive prognosis, she opined that the Individual had not yet demonstrated rehabilitation because he had not abstained from alcohol for six months. Considering the Individual's relatively brief period of abstinence from alcohol, he has not yet established a pattern of abstinence in accordance with her treatment recommendations. Accordingly, I find that the Individual has not mitigated the security concerns under ¶ 23(b).

Regarding factor (c), after his May 2024 positive BATs, the Individual completed two online alcohol education courses, but the Individual was required to complete those courses by his employer, and neither course constitutes alcohol treatment. Since he received his diagnosis of AUD, Mild, in December 2024, the Individual has begun the process of recovery; he completed four months of AA and he has attended weekly sessions with a therapist during the past two

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<sup>9</sup> Although the Individual claimed to have obtained an AA sponsor, he provided no evidence to support his claim of having done so. Therefore, I do not consider the Individual's claim to have an AA sponsor as action to overcome his alcohol problem.

months. Although the Individual is following the DOE Psychologist's treatment recommendations, the DOE Psychologist opined more time in AA was necessary for the Individual to resolve his AUD, Mild. The Individual also failed to demonstrate that he can abstain from alcohol for six months, and the DOE Psychologist opined that the Individual has not yet resolved his AUD, Mild. Despite the Individual's Psychologist's positive opinion of the progress the Individual has made, I accept the DOE Psychologist's opinion that more time is needed considering the significance of the security concerns presented by the Individual's intoxication at work in May 2024 and the uncertainty as to the durability of his recovery due to his short period of abstinence and treatment. Accordingly, I find that the Individual has not mitigated the security concerns under ¶ 23(c).

Regarding factor (d), as discussed above, the Individual has completed four months of AA, but this is short of the six months of AA recommended by the DOE Psychologist. The Individual has also not abstained from alcohol for six months, and therefore he has not established a pattern of abstinence in accordance with the DOE Psychologist's treatment recommendations. Accordingly, I find that the Individual has not mitigated the security concerns under ¶ 23(d).

For the reasons stated above, I cannot find that the Individual has mitigated the security concerns asserted by the LSO under Guideline G.

## **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 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.

Diane L. Miles  
Administrative Judge  
Office of Hearings and Appeals