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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: October 8, 2025)	Case No.: PSH-26-0002
)	
)	

Issued: March 19, 2026

Administrative Judge Decision

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."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 should not be granted access authorization.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires a security clearance. In January 2025, the Individual submitted a Questionnaire for National Security Positions (QNSP) for his security clearance application, disclosing that he had been disciplined multiple times by employers and charged with an alcohol-related offense within the last year. As a result, the DOE Local Security Office (LSO) requested a DOE-consultant psychologist (DOE Psychologist) to evaluate the Individual. Based on the information gathered by the LSO, including a June 2025 report produced by the DOE Psychologist (Report), the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding his eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guidelines E, G, and I of the Adjudicative Guidelines.

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.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. At the hearing, the Individual provided his own testimony and the testimony of his Alcoholics Anonymous (AA) sponsor (sponsor), his wife, and his psychologist (Individual's Psychologist). The LSO presented the testimony of the DOE Psychologist. The Individual submitted twenty-three exhibits, marked Exhibits A through W. The LSO submitted fifteen exhibits, marked Exhibits 1 through 15.²

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated, the LSO cited Guideline E (Personal Conduct), Guideline G (Alcohol Consumption), and Guideline I (Psychological Conditions) of the Adjudicative Guidelines as the bases for concern regarding the Individual's eligibility for a security clearance. Exhibit (Ex.) 1.

Guideline E provides that “[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 15. “Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” *Id.* Conditions that could raise a security concern include:

...

- (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of: . . . any disruptive, violent, or other inappropriate behavior; [and] . . . a pattern of dishonesty or rule violations[.]

....

Id. at ¶ 16.

The SSC recounts the following information, copied verbatim below:

- A. In December 2023, [the Individual's current employer (Employer)] terminated [the Individual] for sending inappropriate text messages to his management.

² References to the LSO exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

- B. On November 13, 2023, [Employer] administratively restricted [the Individual] from the site and placed him on administrative leave after sending inappropriate text messages to his management.
- C. In March 2022, [Employer] reprimanded [the Individual] for sending his supervisor text messages in the evening.
- D. On February 10, 2020, [Employer] issued [the Individual] an oral reminder and placed him on six months of probation due to a continued pattern of unprofessional conduct and behavior including damaging a wall by kicking a chair into it, inappropriate use of email, and texting work-related complaints to a supervisor's personal cell number at 10:44 pm on one occasion.
- E. On January 31, 2019, [Employer] issued [the Individual] a written reminder and placed him on nine months of probation for a vehicular incident. He was operating a van and struck a fence post causing damage to the van's mirror.
- F. On February 9, 2017, [Employer] placed [the Individual] on decision making leave and twelve months of probation for insubordination after he left work without permission when he had been notified not to leave work without permission.
- G. On March 16, 2015, [Employer] issued [the Individual] a written reminder and placed him on six months of probation for a vehicular incident after he drove a vehicle with an expired inspection.
- H. On April 14, 2014, [Employer] issued [the Individual] an oral reminder and placed him on six months of probation for a vehicular incident. He was travelling at 36 mph in a 25-mph zone.
- I. In August 2009, [a former employer] terminated his employment.

Ex. 1 at 6–7.

This information justifies the LSO's invocation of Guideline E.

Guideline G provides that “[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. Conditions that could raise a security concern include “alcohol-related incidents away from work, such as . . . fighting, . . . disturbing the peace, or other incidents of concern”; and “[d]iagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist . . .) of alcohol use disorder . . .” *Id.* at ¶ 22(a), (d). The SSC cites that the DOE Psychologist concluded in the June 2025 Report that the Individual met sufficient criteria under the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision*, for a diagnosis of Alcohol Use Disorder (AUD), Moderate, without adequate evidence of rehabilitation or reformation. Ex. 1 at 7. The SSC also cites that in June 2024 the Individual was arrested and

charged with Public Intoxication and admitted to consuming ten alcoholic beverages prior to his arrest. *Id.* This information justifies the LSO's invocation of Guideline G.

Guideline I provides that “[c]ertain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness.” Adjudicative Guidelines at ¶ 27. “A formal diagnosis of a disorder is not required for there to be a concern under this guideline.” *Id.* Conditions that could raise a security concern include the following:

- (a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors; [and]
- (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;

....

Id. at ¶ 28.

The SSC cites that the DOE Psychologist concluded the following:

[The Individual] demonstrates a pattern of disruptive behavior at work which he attributes to Attention Deficit Hyperactivity Disorder (ADHD) and/or his disabilities not being adequately accommodated. He is not taking responsibility for these problems or adequately addressing his purported diagnosis. Further he is not following medical advice to rule out other contributing factors to these problems (sleep apnea). The symptoms he is attributing to ADHD have led to impairment in his judgment, reliability and stability. Furthermore, he has demonstrated a willingness to be dishonest about his alcohol use and treatment, which suggests an impairment in judgment, reliability, stability, and trustworthiness. Lastly, he demonstrates a pattern of using his purported problems to gain sympathy and justify his behaviors, often externalizing blame and avoiding taking responsibility for his problems. These traits can impair judgment, reliability, stability, and trustworthiness.

Ex. 1 at 7.

This information justifies the LSO's invocation of Guideline I.

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 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 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.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

A. Personal Conduct

There is no dispute that the Individual has been disciplined by his employers over the years. Starting in 2009, he was terminated by his then employer. Ex. 12 at 239. The president of that employer declined to provide detail into the reasons for the termination but told an investigator that the Individual was not reliable and described the Individual as confrontational, which did not improve despite “attempt[s] to work with [the Individual] on this repeatedly” Ex. 15 at 564. The Individual explained that he was terminated because he complained about an unsafe condition, which angered the employer. Transcript of Hearing, OHA Case No. PSH-26-0002 (Tr.) at 97–98. According to the Individual, he eventually filed a complaint in response, and the investigating federal agency determined that he was wrongfully terminated. *Id.*; *see also* Ex. 15 at 568 (Individual stating that this employer falsely claimed that he threatened to leave his work vehicle on the side of the road as a reason for his termination). The remaining instances of discipline involve Employer.

The Individual started working for Employer in 2014. Ex. 11 at 198. During his tenure, he was disciplined several times, which resulted in being terminated in December 2023. *Id.* at 196–197, 199–200. In his first year of employment, he was placed on probation for speeding. Ex. 15 at 389. In the response submitted to a Letter of Interrogatory (LOI) in March 2025, he questioned whether there was any proof he exceeded the speed limit, citing the absence of cameras in the area. Ex. 7 at 31.

In 2015, he received a written warning for driving a work vehicle with expired inspection. Ex. 15 at 389. In his LOI response, he explained that while he overlooked the expiration date he only violated his employer’s rule since the federal agency that issues the registration had a less rigid interpretation of when inspection expires. Ex. 7 at 32.

In 2017, he was placed on leave and a year of probation for insubordination for leaving work without permission. Ex. 15 at 389. The Individual explained in a 2020 QNSP that he was written up for leaving the worksite for lunch after asking his supervisor for permission, which was denied. Ex. 12 at 235. To explain his behavior, he stated that his supervisor “had worked [him] well past the cafeteria hours” and his supervisor was “trying to prevent [him] from getting . . . lunch.” *Id.* However, he also claimed in the LOI response that the supervisor would have allowed him to leave the worksite if he had said it was for a reason other than lunch, which he was unwilling to do. Ex. 7 at 33. Unrelatedly, the Individual claimed that Employer was violating federal regulations regarding driver fatigue. *Id.*

In 2019, he received a warning and was placed on nine months of probation for causing damage to a work van by striking a fence post. Ex. 23 at 235. He stated that he was fatigued from working overnight and accidentally hit the fence post. Ex. 7 at 34.

In 2020, he was placed on six months of probation due to “a continued pattern of unprofessional conduct and behavior” for kicking a chair, inappropriately using email, and texting work-related complaints to management at night. Ex. 15 at 389. Regarding the chair-kicking incident, the Individual explained that he had his feet in a chair one morning, which a manager asked him to remove. Ex. 11 at 236. He “pushed the chair away with [his] foot[,] . . . the chair that is on wheels traveled 8 feet and hit a wall” and he was held responsible for a resultant small hole in the sheetrock. *Id.* The Individual disputed the damage in the LOI response. *Id.* However, in his interview with an investigator in 2020, he stated that the chair did cause the small hole and that he would not repeat the behavior. Ex. 15 at 380. Regarding the late-night complaints, Employer reported that the Individual sent a manager messages at the manager’s personal cell number at 10:44 p.m. *Id.* at 389.

He was most recently disciplined in November 2023 and March 2022 after he again sent text messages to his management that Employer deemed inappropriate. Ex. 11 at 197, 199–200. The March 2022 discipline was for an incident in January 2022, when the Individual sent his supervisor a late-night text message complaint after he was told to complete a task before being able to leave on the date of his grandmother’s death. *Id.* at 200; Ex. 8 at 36. In November 2023, the Individual again sent late-night text messages to his supervisors, on this occasion complaining about the handling of classified documents, which he claims were not properly addressed.³ Ex. 11 at 199–200; Ex. 8 at 58. He was placed on leave in November 2023 and terminated the following month. Ex. 7 at 37; Ex. 11 at 198.

Employer rehired the Individual a year later in December 2024. Ex. 11 at 196. The Individual testified that when he returned to his job in 2024, he decided that he needed change his life. Tr. at 76–77. His wife testified that he expressed regret that he sent the text messages to his supervisor and “should have approached it in a different way.” *Id.* at 22. However, the wife also testified that she did not believe his late-night text messages were inappropriate because he was trying to bring attention to work issues and management was not listening to him. *Id.* at 25, 34.

The Individual’s wife testified that, since being rehired, he uses the union steward process to mediate issues rather than directly contacting his supervisors. *Id.* at 28, 47 (wife testifying that he

³ The Individual confirmed that a security review of his allegation failed to substantiate his claim. Ex. 8 at 58.

had always used the union steward process but would sometimes move ahead with contacting the supervisor directly if he “couldn’t get a hold” of the steward). The Individual testified that he had completed a course on communication, which helped him understand other points of view, that written communication is susceptible to misinterpretation, and that text messages should be sent during business hours instead of late at night. *Id.* at 82–83. He testified that he is in a “total[ly] different place” and realizes that some of his past mistakes were “ridiculous.” *Id.* at 158. He finds it beneficial to speak with somebody else, such as his wife or union steward, to decide how he should best communicate an issue. *Id.* at 84. He testified that it was absolutely inappropriate for him to have kicked the chair into a wall and explicitly took responsibility for speeding in 2014. *Id.* at 157–59.

B. Alcohol Use

The Individual admitted to a twenty-five-year history of binge consuming alcohol at the rate of twelve beers, two to three times a month. Ex. 10 at 167; *see also* Tr. at 105.

As stated above, the Individual’s grandmother passed away in January 2022. He testified that his alcohol consumption worsened prior to his grandmother’s passing. Tr. at 85, 103–04. He reported the same information to his physician in February 2022, disclosing that he had been “drinking heavily (binge drinking)” to the point that his “supervisor put him on leave.” Ex. 10 at 168 (original quotation from physician in medical records). However, the Individual failed to report this information to the DOE Psychologist during the psychological evaluation where he denied that his consumption increased around the time of his grandmother’s health decline and death. Ex. 8 at 57.

The Individual reported in the LOI that he “completely stopped drinking alcohol” for “almost two years” after his grandmother passed away. Ex. 7 at 44, 47. He made the same statement to the DOE Psychologist. Ex. 8 at 61. But both statements are false by his own admission. Tr. at 103–04. He reported to the Individual’s Psychologist⁴ that he had only abstained for about six months after his grandmother passed and disclosed that his alcohol consumption “became more of a problem after his grandmother died in 2022”: he intended to stop drinking altogether but would often “slip.” Ex. A at 2–4. At the hearing, he confirmed that he only abstained for about six months after his grandmother passed before consuming beer “on two different occasions.” Tr. at 86. He then testified that, in 2023, he consumed an unrecalled amount of alcohol a couple of times in brief attempts to return to controlled drinking. *Id.* at 87–88. He denied that his consumption constituted binge drinking. *Id.* at 88. However, his medical records indicate that he reported consuming enough alcohol in 2023 to become “drunk twice.” Ex. 10 at 107.

After he was terminated by Employer, he started consuming alcohol a few times a month at the rate of one to six beers per episode. Tr. at 88, 108, 110 (describing his behavior as “battling with the fact that [he] shouldn’t be drinking at all”). In June 2024, the Individual was arrested and charged with Public Intoxication after getting into an altercation with his brother. Ex. 7 at 42; Ex. 11 at 213. When the police arrived, the Individual refused to answer any questions. Ex. 7 at 42. According to the Individual, his refusal angered the police officer and the officer arrested the

⁴ The Individual’s Psychologist interviewed the Individual on August 29, 2025, September 5, 2025, and September 12, 2025, to “determine if there are psychiatric, psychological, and/or emotional difficulties that may need to be considered in assessing whether he may retain his security clearance.” Ex. A at 2. The Individual’s Psychologist produced a report of his findings on January 23, 2026. *Id.*

Individual because the Individual had alcohol on his breath and the officer “was only looking for a quick arrest so he could go back to doing whatever”⁵ Ex. 11 at 213. The Individual admitted that he had consumed ten alcoholic beverages on the day leading up to the incident, which represents a significantly greater level of consumption than one to six beers. Ex. 7 at 42. He reported that this level of consumption was not typical but did not explain why he decided to drink so heavily that particular day. Ex. 8 at 59.

There are additional examples of the Individual providing conflicting information regarding his alcohol use. For example, during the psychological evaluation, he denied being prescribed medication to assist in abstaining from alcohol. *Id.* at 57. However, shortly after his 2024 arrest, he was prescribed medication for that exact purpose. Tr. at 112; *see also* Ex. 8 at 60 (DOE Psychologist noting the Individual, despite his denial, was prescribed medication “to treat alcohol use disorder”). He also stopped taking the medication without first consulting a physician. Tr. at 114.

Another example is his denial during the psychological evaluation that he ever had a problem with alcohol or that alcohol had a negative impact on his life other than his June 2024 arrest. Ex. 8 at 58–59. In his LOI, he also denied having a problem with alcohol, attempting to cut back, or having a pattern of binge drinking. Ex. 7 at 46. However, as stated above, his medical records contain the Individual’s statement that he was “drinking too much” around the time he decided to text his supervisor late at night in January 2022 and show that he has a history of binge consumption of alcohol. Ex. 8 at 58; Ex. 10 at 125–29. The Individual’s medical records contemporaneous with the June 2024 arrest indicate that a physician advised him to abstain from alcohol. Ex. 8 at 60; Ex. 10 at 159. Furthermore, a physician diagnosed the Individual with Alcohol Abuse, Uncomplicated in January 2022, noting that the Individual “heavily” consumed alcohol “several days a week[.]” Ex. 10 at 173. And he was advised by a physician in 2024 to reduce his alcohol consumption due to his liver enzyme test results. *Id.* at 159.

The DOE Psychologist diagnosed the Individual as having an AUD, Moderate, based on the Individual’s history of alcohol use and self-report that he had been abstinent from alcohol for approximately five months. Ex. 8 at 59, 67; *see also* Tr. at 117 (Individual’s Psychologist agreeing that the Individual “presents a history of alcohol abuse”). The Individual underwent a Phosphatidylethanol (PEth) test at the time of the evaluation, which provided a negative result and therefore provided some support for his claim of abstinence dating back to January 2025.⁶ Ex. 8 at 59–60, 72. To address the AUD, the DOE Psychologist recommended (1) at least twelve months of abstinence documented by employer-administered breath tests and monthly PEth testing; and (2) at least three AA meetings a week. *Id.*

Based on the recommendation, the Individual started attending AA in September 2025, five months before the hearing. Ex. M at 50. He typically attended AA three or more times a week. Tr. at 90. At the AA meetings, he referred to himself as an alcoholic. *Id.* at 62. The Individual obtained an AA sponsor and worked the AA steps. *Id.* at 53–54, 57, 59. He never disclosed his future intent

⁵ The Individual believed that his brother was under the influence of drugs at the time. Ex. 8 at 59.

⁶ “PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption.” Ex. 8 at 72. The DOE Psychologist explained that PEth tests “can only examine alcohol consumption in the last 28-30 days” *Id.* at 60.

regarding alcohol use to his sponsor. *Id.* at 57. The sponsor testified that the Individual stated he has shared and discussed his work in AA, like his written self-inventory, with his wife. *Id.* at 62–63. The Individual testified that he had worked with his wife to help him come up with a “moral inventory” as part of working the AA steps. *Id.* at 95. By contrast, his wife testified that he has never talked to her about his AA meetings, his sponsor, or what he has learned in AA. *Id.* at 20.

The Individual testified that AA made him “realize a lot of the things that [he] was doing . . . was wrong, and it’s also helped [him] come up with better forms of communication and just a whole new outlook on things.” *Id.* at 71. He testified that he never intends to consume alcohol again. *Id.* at 68. However, he vacillated regarding whether he has a problem with alcohol. At first, he testified that he did not have a current problem with alcohol even though he “still kind of consider[s] [himself] an alcoholic” *Id.* at 133. Later, he testified, “[o]bviously, my alcoholism is a problem.” *Id.* at 158. He also denied that anybody had expressed concern regarding his alcohol use. *Id.* at 134. However, he previously told the Individual’s Psychologist otherwise. Ex. A at 4 (reporting “the Individual has been concerned about his level of [alcohol] use as have other family members”). And his testimony is contradicted by the medical advice he received regarding his liver function. *Supra* p. 8.

He testified that he last consumed alcohol in January 2025. Tr. at 67; *see also id.* at 15 (wife testifying the Individual last consumed half a beer at their home at that time). Since then, he has used exercise to maintain abstinence, and he benefited from the support of his wife. *Id.* at 7, 17.

The Individual submitted nine negative PEth tests of samples collected in August 2025 through January 2026. Exs. E–L, V. The DOE Psychologist concluded that Individual provided evidence of six months of abstinence, as demonstrated by the PEth test results. Tr. at 140–41 (considering the period covered as July 2025 to January 2026). However, she conceded that the PEth test the Individual underwent during the June 2025 evaluation would corroborate abstinence beginning in at least early May 2025, which represents approximately nine months of abstinence preceding the February 2026 hearing date. *See id.* at 152. She concluded, however, that he had not demonstrated adequate evidence of reformation or rehabilitation. *Id.* at 139, 141. She testified that he did not complete her recommendation of twelve months of AA and abstinence and explained that her recommendation was based on the Individual’s self-report of having abstained for two years with some relapses, which demonstrated he was vulnerable to relapse. *Id.* at 142–43.

By contrast, the Individual’s Psychologist, while he agreed with the diagnosis of AUD, moderate, gave the Individual a positive prognosis based on a year of self-reported abstinence without relapse, PEth testing, and AA participation. Tr. at 121; *see* Ex. A at 5–6 (report concluding that the Individual “appears to be adequately addressing [his AUD] through abstinence and AA meetings”). However, the Individual’s Psychologist could not provide the date the Individual began attending AA. Tr. at 125. He also did not critically evaluate the Individual’s claimed period of abstinence not covered by the PEth test results because “it seemed plausible” and he found “no reason to doubt [the reported one year of abstinence.]” *Id.* at 130.

C. Psychological Condition

The Individual has been diagnosed with ADHD, a treatable condition. Ex. 8 at 63, 66. The Individual attributed his tendency to engage in unprofessional behavior at work, evinced by his numerous reprimands, to having a disorder that his management does not understand nor

accommodate. *Id.* at 64. He also has been diagnosed with sleep apnea, and the DOE Psychologist stated the symptoms of sleep apnea overlap with those of ADHD, including irritability and difficulty concentrating. *Id.* These conditions can exacerbate one another if untreated. *Id.* During the evaluation, the DOE Psychologist administered the Minnesota Multiphasic Personality Inventory (MMPI-3) to assess potential psychopathology and personality structures. *Id.* at 63. The Individual's results, consistent with having ADHD, indicated that he may have "complaint[s] about memory problems, have a low tolerance for frustration, [] not cope well with stress, and experience difficulties in attention and/or concentration." *Id.* The DOE Psychologist reported that the Individual did not follow his doctor's advice to take medication to treat his ADHD or use a Continuous Positive Airway Pressure machine to treat sleep apnea. *Id.*

The DOE Psychologist concluded after the evaluation that the symptoms the Individual attributes to his untreated ADHD, which the Individuals blamed for his disruptive behaviors, had led to "impairment in his judgment, reliability, stability, and trustworthiness." *Id.* at 67. Furthermore, the DOE Psychologist opined that the Individual has a "pattern of using his purported problems to gain sympathy and justify his behaviors, often externalizing blame and avoiding taking responsibility for his problems," which are traits that "can impair judgment, reliability, stability, and trustworthiness." *Id.* The DOE Psychologist concluded that the Individual has a "victim mentality," demonstrated by his attempt to use his ADHD to portray "himself as a victim and/or exaggerating problems . . . in order to manipulate others' sympathies and gain their support and justify his behavior." *Id.* at 65. People with victim mentality have difficulty learning from their mistakes and "therefore increase[] the likelihood that they will continue to repeat them." *Id.* (stating it is a "persistent, habitual tendency [] to see themselves as a victim and attribute responsibility for negative experiences to external factors often at the expense of personal agency and accountability"). As support for this conclusion, the DOE Psychologist referenced that the Individual has been reprimanded, counseled, and suffered consequences for his behavior—such as texting supervisors inappropriately several times—and continued to defend his actions "by pointing out shortcomings in work policies, inadequate supervisor responses, and/or attributing his behavior to his self-described disabilities." *Id.* The DOE Psychologist concluded that the traits characteristic of a victim mentality can and have "impair[ed] [the Individual's] judgment, reliability, stability, and trustworthiness." *Id.* at 67.

After the evaluation, the Individual began addressing his ADHD symptoms with doctor-prescribed medication. *Tr.* at 74. His wife testified that he takes his ADHD medication as prescribed and that she has observed a big difference: he is more focused and motivated. *Id.* at 42. The Individual agreed. *Id.* at 79. He testified that his doctor was "very pleased" with his ability to get "healthier," lose weight, and reverse his sleep apnea problems—which an overnight test confirmed. *Id.* at 81; *Ex. D* at 22 (October 2025 sleep test results).

The DOE Psychologist concluded that the Individual is adequately addressing his ADHD and his prognosis is good based on the effect of the medication and exercise. *Tr.* at 148–49, 151; *see also Id.* at 120 (Individual's Psychologist concluding the same). She also concluded that he had resolved his sleep apnea. *Id.* at 151. However, the DOE Psychologist opined that nothing in the record demonstrated that the Individual was taking responsibility for his dishonesty in reporting his alcohol use or his past behavior to a degree that she would change her opinion regarding his pattern of behavior that created a concern regarding his judgment, reliability, or trustworthiness—*i.e.*, the victim mentality. *See id.* at 155. The Individual's Psychologist offered the alternative

conclusion that some of the Individual's history of issues at work occurred in the context of grief over his grandmother's death and some were related to the Individual's "poorly treated ADHD and lack of treatment for sleep disorder." Ex. A at 5. The Individual's Psychologist opined that, instead of representing a psychiatric condition, the Individual's "difficulties at work likely are related to his problems focusing and being able to retain even ordinary tasks, leading to help-seeking and resulting frustration on his part." *Id.* at 6. The Individual's Psychologist testified that the Individual had "made some progress" with his ADHD that indicates "he's going to be able to manage it more effectively." Tr. at 121.

V. ANALYSIS

A. Guideline E Considerations

Conditions that can mitigate security concerns based on personal conduct include the following:

- (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

I conclude that none of the above mitigating conditions apply to resolve the Guideline E concerns. The SSC identifies several instances of the Individual's behavior that resulted in employer-meted discipline for inappropriate written communications with management, insubordination, and vehicle-related incidents. Therefore, ¶ 17(a) and ¶ 17(b) are not applicable because the behavior outlined in the SSC does not include instances of the Individual omitting, concealing, or falsifying information.

I further conclude that ¶ 17(c) does not apply for the following reasons. While viewed separately the several offenses may be minor, especially the ones related to his work vehicle such as speeding and expired registration, his problematic communications and insubordination are not because they evince a pattern of inappropriate behavior and rule breaking. Given that there are several instances of concerning behavior at the rate of approximately an incident a year spanning almost a decade from 2014 to 2023, I conclude that the behavior is not infrequent. Finally, I find that his behavior did not happen under "such unique circumstances" because there is nothing in the record to support this or to suggest that his conduct is unlikely to recur. To the extent he argues that his conduct was attributable to his ADHD, which he is now addressing, I do not conclude that untreated ADHD presents "unique circumstances."

Turning to ¶ 17(d), I conclude that it does not apply to resolve the concerns. Although the Individual acknowledged his behavior at the hearing, I question the credibility of his testimony based on my reasoning below and the DOE Psychologist's opinion that he has a victim mentality, and therefore conclude that he has not yet fully accepted responsibility for his conduct. Accordingly, I remain skeptical that the steps he has taken to address the factors that contributed to his inappropriate behavior make it unlikely that he will repeat the behavior. Since he has treated his ADHD and resolved his sleep apnea, the conditions should not impact his behavior going forward so long as he continues his treatment. However, he continues to provide conflicting and contradictory accounts of his alcohol use, described in greater detail below, which weakens his credibility in general and therefore undermines his testimony regarding his workplace behavior, reliability, and trustworthiness. Even if I were to set aside my general skepticism, his testimony that he has since learned that he should not send text message complaints to his supervisor late at night seems questionable given that he was warned about this behavior on more than two occasions. Asserting at the hearing that he has since learned his lessons does not go far enough to demonstrate that his testimony is sincere and the conduct is unlikely to recur. Nor does evidence of completing communication training: it was not difficulty in expressing himself that led to his decision to continue to send messages at inappropriate times. And the fact that he will avail himself of the steward process does not mitigate my concern. The steward process can be misused too. Furthermore, at least one of the inappropriate late-night text messaging occurred when he was consuming too much alcohol, and, as discussed below, he has not yet resolved the concerns derived from his alcohol use. It may therefore again impact his behavior.

Lastly, ¶ 17(e)–(g) do not apply because the behavior outlined in the SSC does not indicate the Individual is particularly vulnerable to exploitation, manipulation, or duress; the information contained in the SSC has not been demonstrated to be unreliable; and the allegations do not relate to association with persons involved in criminal activity.

B. Guideline G Considerations

Conditions that can mitigate security concerns based on alcohol consumption include the following:

- (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.

I conclude that none of the above mitigating conditions apply to resolve the Guideline G security concerns. I find that ¶ 23(a) does not apply because I do not conclude that the passage of time, frequency of the conduct, or circumstances are such that the concerning conduct is unlikely to recur. In reaching my conclusion, I am persuaded by the DOE Psychologist's opinion that the Individual has not rehabilitated or reformed from his AUD based on the inferences she drew from the Individual's inconsistent reporting of his alcohol use and history of relapse. Since the AUD is unresolved, I do not conclude that his behavior is unlikely to recur and he has not resolved the resultant concern regarding his reliability, trustworthiness, and judgment.

Second, I find that ¶ 23(b) does not apply. The Individual technically acknowledged his pattern of maladaptive alcohol by testifying that he does have a problem with alcohol, albeit only after first testifying that he did not have a current problem, but the entire record demonstrates his persistent tendency to provide conflicting information regarding his alcohol use, including at the hearing (*e.g.*, testifying that his admitted instances of consumption in 2023, during his previously claimed period of two-year abstinence, were not binge episodes while medical records reflect that he reported being drunk; testifying that he worked with his wife on his AA steps but she denied the same; and denying that anybody expressed concern regarding his alcohol use despite stating the opposite to the Individual's Psychologist and receiving documented medical advice to reduce his consumption). While he did attend AA and abstain from alcohol at the DOE Psychologist's recommendation, I do not conclude he has thereby provided a clear and established pattern of abstinence because he did not meet the year of documented abstinence, he has a history of relapse after stints of abstinence, his testimony regarding his progress lacks credibility given the concerns

referenced above, and the DOE Psychologist concluded that he has not demonstrated rehabilitation or reformation.

For the reasons cited above under ¶ 23(a) and ¶ 23(b), I further conclude that ¶ 23(c) does not apply to resolve the concern. The Individual has not adequately addressed his AUD and therefore, even if AA were considered “treatment,” his progress is not satisfactory.

Lastly, ¶ 23(d) does not apply because he has not successfully completed a treatment program or required aftercare.

C. Guideline I Considerations

Under Guideline I, the following relevant conditions can mitigate security concerns associated with a psychological condition:

- (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 amenable 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.

I find that ¶ 29(a) and ¶ 29(c) apply to resolve the concerns related to the Individual’s ADHD. The condition is readily controllable and the Individual has been taking medication under care of a physician and made positive lifestyle changes such that the DOE Psychologist concluded, after review of the evidence, that the prognosis is good. I therefore conclude that the Individual put forward sufficient evidence to demonstrate ongoing and consistent compliance with a treatment plan and that his condition is under control and has a low probability of recurrence or exacerbation.

Turning to the opinion that the Individual has engaged in behavior that demonstrates a victim mentality, I find that none of the above conditions apply to resolve the concerns derived from that behavior. First, regarding ¶ 29(a), there is no evidence or opinion in the record that the condition is readily controllable with treatment or that the Individual has demonstrated ongoing and consistent compliance with a treatment plan to address that behavior.

Similarly, there is no evidence, under ¶ 29(b) or ¶ 29(c), that the Individual is undergoing counseling or treatment to address the concerns raised by the DOE Psychologist, nor has he received a favorable prognosis or opinion that the condition is under control or in remission.

Lastly, there is no opinion, under ¶ 29(d) or ¶ 29(e), that the condition is temporary or that there is no indication of a current problem. While the Individual's Psychologist did not reach the same conclusion as the DOE Psychologist, I am persuaded by the DOE Psychologist's opinion that the constellation of behaviors the Individual exhibits amount to a victim mentality and is therefore a trait that can impair his judgment, reliability, stability, and trustworthiness based on the several instances of concerning conduct and accompanying lack of accountability cited by the DOE Psychologist in reaching her conclusion.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline E, Guideline G, and Guideline I of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of 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. Accordingly, I have determined that the Individual should not be granted access authorization.

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