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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: November 18, 2025) Case No.: PSH-26-0014
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Issued: April 20, 2026

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (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

In 2020, the Individual’s access authorization was suspended, and he resigned from a position in lieu of termination, after testing positive for alcohol in the workplace. Exhibit (Ex.) 13 at 135–36, 155–56 (providing information concerning the Individual’s employment and clearance history on a 2024 Questionnaire for National Security Positions (2024 QNSP)).² On July 26, 2024, the Individual completed and signed the 2024 QNSP in connection with seeking access authorization. Ex. 13; Ex. 16 at 292. Therein, the Individual disclosed that he had been arrested and charged with Driving Under the Influence (DUI) in 2005 and tested positive for alcohol on workplace alcohol tests while possessing access authorization in 2018 and 2020, the second of which positive tests resulted in his resigning from his employment in lieu of termination. Ex. 13 at 135–36, 150, 152. The Individual also disclosed on the 2024 QNSP that, in the prior seven years, he had judgments

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 the DOE local security office (LSO) 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 LSO.

entered against him on two credit card debts and had fallen into delinquency on eleven other consumer debts. *Id.* at 156–69. A credit report obtained on August 1, 2024, as part of a background investigation of the Individual showed that the Individual had twelve accounts charged off or referred for collection on which he owed a cumulative \$59,363 and he was 120 days past due on a debt on which he owed \$632. Ex. 9 at 61–64.

In June 2025, the Individual underwent a psychological evaluation with a DOE-contracted Psychologist (DOE Psychologist). Ex. 10 at 71. Records obtained by the DOE Psychologist of a previous psychological evaluation the Individual underwent in 2022 showed that the Individual reported consuming twelve to sixteen drinks three to four times per week in 2018 prior to testing positive on a workplace alcohol test. *Id.* at 76; *see also* Ex. 12 at 113.³ The DOE Psychologist subsequently issued a report of the evaluation (Report) in which she opined that the Individual met sufficient criteria for a diagnosis of AUD, Severe, under the *Diagnostic and Statistical Manual of Mental Health Disorders – Fifth Edition – Text Revision (DSM-5-TR)*. Ex. 10 at 81–82.

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 8–10. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines F and G of the Adjudicative Guidelines. *Id.* at 6–7.

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, and I conducted an administrative hearing in April 2026. The LSO submitted sixteen exhibits (Ex. 1–16) and the Individual submitted one exhibit (Ex. A). The Individual testified on his own behalf and the LSO offered the testimony of the DOE Psychologist. Transcript of Hearing, OHA Case No. PSH-26-0014 (Tr.) at 3, 11, 64.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as the first basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 6. “Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 18. The SSC alleged that the Individual had six charged-off debts on which he owed \$42,524, had six debts referred to collections on which he owed \$16,839, was 120 days delinquent on a debt on which he owed \$632, and had a civil judgment entered against him for \$8,317 in connection with another debt. Ex. 1 at 6. The LSO’s allegations that the Individual demonstrated an inability or unwillingness to satisfy debts and a history of not meeting financial obligations justify its invocation of Guideline F. Adjudicative Guidelines at ¶ 19(a)–(c).

³ The DOE Psychologist’s report (Report) states that the Individual reported consuming twelve to eighteen drinks per sitting during this period. Ex. 10 at 76. In fact, the records the DOE Psychologist referenced indicated that the Individual consumed six to eight double shots of liquor (*i.e.*, twelve to sixteen standard shots) per sitting. Ex. 12 at 113.

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as the other basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 7. "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 having been charged with DUI, his two positive workplace alcohol tests, his resignation from employment in lieu of termination after the second positive workplace alcohol test, his admission to binge consuming alcohol, and the DOE Psychologist's opinion that the Individual met sufficient criteria for a diagnosis of AUD, Severe, under the *DSM-5-TR*.⁴ Ex. 1 at 6. The LSO's allegations that the Individual engaged in alcohol-related incidents both away from and at work, binge consumed alcohol to the point of impaired judgment, and was diagnosed with AUD by a duly qualified medical or mental health professional justify its invocation of Guideline G. Adjudicative Guidelines at ¶ 22(a)–(d).

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

⁴ The LSO also alleged that the Individual tested positive on an alcohol test conducted immediately following the psychological evaluation. Ex. 1 at 7. While the results of the test are relevant to the DOE Psychologist's opinion that the Individual met sufficient criteria for a diagnosis of AUD, they do not present discrete security concerns under Guideline G and accordingly I do not consider this allegation except as it informed the DOE Psychologist's opinion.

A. Individual's History of Alcohol Misuse

The Individual began consuming alcohol in the late 1990s, consuming seven or eight beers per sitting approximately two to three times monthly. Ex. 12 at 112. The Individual joined a branch of the U.S. Military in 2000 and, due to his deployments and other service obligations, consumed alcohol less frequently than before. *Id.* However, in 2005, the Individual was arrested and charged with DUI after failing a field sobriety test while driving home after consuming alcohol. Ex. 7 at 46; Ex. 14 at 207. The charges were ultimately dismissed but the Individual was subjected to military discipline as a result of his conduct. Ex. 12 at 112; Ex. 14 at 207.

The Individual was honorably discharged in 2008 after which he consumed alcohol in moderation for several years. Ex. 12 at 113; Ex. 14 at 191. However, the Individual's alcohol consumption progressively increased over the ensuing years until, by 2018, he was consuming twelve to sixteen shots of liquor per sitting three to four times weekly. Ex. 12 at 113. The Individual attributed this increase in his alcohol consumption to using alcohol to cope with "stress and discontentment around his marriage and home life." Ex. 10 at 80. In June 2018, at which time he possessed access authorization, the Individual tested positive on a random workplace alcohol test. Ex. 14 at 209.

The Individual's employer required him to participate in an intensive outpatient program (IOP) for alcohol treatment, which he completed in September 2018. Ex. 12 at 114. Although the Individual successfully completed the IOP, his participation was less than entirely positive: he was defensive during the IOP sessions, completed assignments "begrudgingly," and minimized the extent of his alcohol misuse. *Id.* Discharge documentation from the IOP directed him to participate in weekly aftercare for one year, attend alcohol abstinence support groups weekly, seek assistance from the IOP as needed, and abstain from alcohol. *Id.* The Individual expressed the opinion to clinicians in the IOP that he could "stay sober on his own" without recourse to Alcoholics Anonymous (AA) or other alcohol abstinence support groups. *Id.* However, he resumed alcohol consumption in 2019 due to "stress and disappointment with his marriage and home life." Ex. 10 at 80; Ex. 12 at 113.

The Individual's alcohol consumption once again increased progressively, and he regularly consumed alcohol to intoxication. Ex. 12 at 113 (indicating that by 2020 he was consuming ten to twelve shots of liquor nightly); Ex. 7 at 48 (Individual indicating in response to a letter of interrogatory (LOI) that he consumed alcohol to intoxication during this period). The Individual cited marital difficulties as having contributed to this behavior. Tr. at 45-46. On April 19, 2020, the Individual consumed an estimated sixteen to twenty shots of liquor. Ex. 12 at 113. The next day, he was selected for a random workplace alcohol test, the result of which was positive. Ex. 14 at 209. The Individual resigned from his employment in lieu of termination following the positive workplace alcohol test. *Id.*

The Individual continued consuming alcohol following his resignation from his employment in April 2020, though at some point he chose to drink beer rather than liquor. Ex. 7 at 47; Ex. 10 at 77 (telling the DOE Psychologist that he stopped drinking liquor in March 2021); Ex. 12 at 114 (representing that he stopped consuming liquor in April 2020). In 2021, the Individual submitted a QNSP (2021 QNSP) in connection with seeking access authorization. Ex. 14 at 219. In June 2022, the Individual met with a DOE-contracted psychologist (DOE Consultant) for an evaluation. Ex. 12 at 110. Following the evaluation, the DOE Consultant issued a report wherein she opined

that the Individual met sufficient criteria for a diagnosis of AUD, Moderate, and recommended that he abstain from alcohol given his history of failing to engage in controlled drinking and the “substantial” risk of relapse presented by his efforts to consume alcohol in moderation. *Id.* at 118–20. However, the Individual continued to consume alcohol on a weekly basis. Ex. 7 at 47; *see also* Tr. at 51 (Individual claiming that he “was never given [the DOE Consultant’s] report” until having received the LSO’s exhibits in connection with this proceeding).

B. Individual’s Financial Difficulties

The Individual and his wife married in 2006. Ex. 14 at 194. According to the Individual, they “lived above their means for many years.” Ex. 12 at 115. Following the Individual’s resignation from his employment in 2020 after the second positive workplace alcohol test, he was unemployed for fourteen months. Ex. 14 at 188. The couple’s financial problems became more pronounced during this period, and they fell behind on payments towards credit card debts. Ex. 8 at 56.

In June 2021, the Individual obtained employment with a DOE contractor. Ex. 14 at 187. A copy of the Individual’s credit report was obtained in September 2021 as part of a background investigation following the Individual’s submission of the 2021 QNSP. Ex. 16 at 424. The credit report showed that two credit card debts, on which the Individual owed a cumulative \$36,186, had been referred to collections. *Id.* at 425.

In February 2022, the Individual and his wife, who had been separated since February 2021, divorced. Ex. 13 at 140; Ex. 14 at 194; *see also* Ex. 16 at 319 (indicating that the Individual’s wife filed for divorce in October 2021). The Individual was ordered to pay child support and alimony, and the couple’s debts were divided between them. Ex. 16 at 319–20.

In August 2022, in response to an LOI issued to him by the LSO, the Individual represented that he had entered into payment plans with the creditors that owned the credit card debts referred to collections. Ex. 8 at 56. The Individual claimed that he would pay a cumulative \$600 monthly towards the two debts. *Id.*

In February 2023, the Individual resigned from his employment with the DOE contractor in lieu of termination due to unsatisfactory performance. Ex. 13 at 134. Specifically, the Individual was required to obtain a certification for the position to which he was hired but failed to do so and was told that he would be terminated. Ex. 16 at 308; *see also id.* at 311 (Individual’s supervisor telling an investigator that certification was estimated to take six months but that the Individual was not certified after fifteen months on the job).

The Individual was unemployed for approximately seven months after resigning from his employment with the DOE contractor. Ex. 13 at 132–33. During this period, he began residing with his parents, to whom he paid no rent, due to his financial difficulties. Tr. at 33 (testifying that his parents do not charge him rent); Ex. 13 at 128 (indicating that he began residing with his parents in July 2023). The Individual obtained employment at a fulfillment center in September 2023 at a wage that was only about one-third of what he had earned in his previous employment with the DOE contractor. *Id.* at 132–33; Tr. at 19. The Individual was fired from this position after six months for violations of the employer’s policies. Ex. 13 at 133; Ex. 16 at 298–99.

In June 2024, the Individual obtained his current employment with a DOE contractor. Ex. 16 at 298. In July 2024, the Individual submitted a QNSP wherein he reported numerous financial delinquencies, including civil judgments issued against him related to delinquent credit card debt. Ex. 13 at 156–69. An August 1, 2024, credit report obtained as part of the background investigation into the Individual’s eligibility for access authorization showed that he had twelve accounts charged off or referred for collection on which he owed a cumulative \$59,363 and that he was 120 days past due on a debt on which he owed \$632.⁵ Ex. 9 at 61–64.

After obtaining this employment, the Individual paid four of his delinquent debts: one in May 2025 on which he owed \$901; one in June 2025, on which he owed \$455; one in October 2025, on which he owed \$453; and one in December 2025, on which he owed \$605.⁶ Tr. at 18, 20, 23; Ex. A at 14, 16; *see also* Tr. at 16 (testifying that he was attempting to negotiate settlements with his creditors, starting with accounts with the lowest balances). He also testified that he was making court-ordered payments of \$100 monthly towards satisfaction of the civil judgment. Tr. at 21, 30–31. However, two additional debts on which he owed a cumulative \$3,311 were referred to collections after he began his employment with the DOE contractor.⁷ Ex. A at 27, 29. The Individual disputed one of the new collection accounts, claiming that he had paid the account as agreed, but provided no evidence at the hearing to corroborate such payments. *See id.* (reflecting that the Individual provided a statement to the credit reporting agency representing that he had made payments on the debt as agreed). A credit report for the Individual obtained in April 2026, showed that he owed \$47,639 on eight delinquent debts.⁸ *Id.* at 11, 13, 18, 20–21, 25–27, 29; *see*

⁵ The Individual testified at the hearing that he believed the third and fourth debts listed in the collections section of the August 2024 credit report, which were owed to the same creditor, related to the same credit card debt. Tr. at 16; Ex. 9 at 62. I do not credit this claim. While the Individual owes the two debts to the same creditor, the debts are for significantly different amounts and have differing account numbers. Ex. 9 at 62. Moreover, a credit report submitted by the Individual himself shows that the two credit cards were opened months apart and have differing payment histories. Ex. A at 20–21. In light of the foregoing, it is clear that these two entries on the Individual’s credit report refer to distinct debts.

⁶ The Individual claimed to have paid the debts reflected on the ninth and twelfth entries in the collections section of the August 2024 credit report. Tr. at 23–24. However, the debts are present on the Individual’s most recent credit report where they are reported as “Closed. [amount of debt] written off” with no indication that the Individual made any payments. Ex. A at 11, 18; *see also* Ex. 9 at 64 (reflecting the same debts reported on the August 2024 credit report). Considering the information from the Individual’s most recent credit report, and the absence of evidence that he paid the debts, I do not credit the Individual’s claim.

⁷ Although the Individual’s most recent credit report shows three new debts referred to collections, I find that only two are unique debts. Ex. A at 27–29. Two of the entries reflect debts referred to collections in August 2024. *Id.* at 27–28. These entries list the same partially redacted account number, debt opening date, and date of referral to collections for the debts in question. *Id.* Considering the aforementioned information, I infer that the two overlapping entries refer to a single debt.

⁸ Three of the delinquent debts listed on the August 2024 credit report obtained during the background investigation of the Individual were not listed on his April 2026 credit report. *Compare* Ex. 9 at 61, 64 *with* Ex. A at 3–29. The Individual was uncertain why this was the case. *See* Tr. at 21–22, 27. One of the three debts appears to have been the credit card debt that was the subject of the civil judgment the Individual disclosed on the 2024 QNSP. *Compare* Ex. 9 at 61 *with* Ex. 13 at 158.

also Tr. at 15, 17–18, 22 (Individual testifying that he owed the debts and had not entered into any payment plans to address them).

The Individual testified that he continued to reside with his parents and pay no rent as of the date of the hearing. Tr. at 33. The Individual indicated that his child support obligations, his voluntary financial support for his children, and a monthly car payment of over \$800 absorbed a significant portion of his income. *Id.*; see also *id.* at 35 (Individual indicating that he obtained the vehicle in April 2023, at which time he was unemployed). The Individual expressed that, considering his current income and spending, he “would like to have [his delinquent debts] paid off by 2030.” *Id.* at 34.

C. Evaluation by the DOE Psychologist

The Individual met with the DOE Psychologist for a clinical interview on June 3, 2025. Ex. 10 at 75. During the clinical interview, the Individual reported that he usually consumed two to three beers or malt beverages once or twice weekly but noted that he had consumed four or five alcoholic beverages on “a weekend or two here and there.” *Id.* at 78. According to the DOE Psychologist, the Individual reported having consumed alcohol on only two occasions in the month prior to the clinical interview. Tr. at 98–99; see also Ex. 10 at 78 (reflecting in the Report that the Individual reported having consumed “a couple” malt beverages two days prior to the clinical interview and four or five malt beverages over five to six hours several weeks prior to the clinical interview); but see Tr. at 60 (Individual testifying in response to a question concerning what alcohol consumption he disclosed to the DOE Psychologist in the month prior to the clinical interview that he “told her that [he] had a pattern of drinking two to three drinks on the weekends”).

Immediately following the evaluation, the Individual provided a sample for a phosphatidylethanol (PEth)⁹ test which was positive at 166 ng/mL. *Id.* at 91. A Medical Doctor (MD) interpreted the results of the PEth test, relying on a journal article that summarized information and studies regarding the PEth test and proposed interpretative guidelines. *Id.* at 90; 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 (Journal Article). The MD noted that “PEth of more than 200 ng/mL, is Heavy Consumption (at least 4 drinks/day several days/week)” while PEth greater than 20 ng/mL “indicates Significant Consumption (averaging 2 to 4 drinks/day several days/week) . . . [which is] the top of NIAAA low risk alcohol consumption.” Ex. 10 at 90; see also Journal Article at 5 (proposing that PEth levels between 20–200 ng/mL be interpreted as evidence of a “[m]oderate level of drinking” while PEth levels in excess of 200 ng/mL be interpreted as evidence of “[h]eavy drinking”). Despite the foregoing, the MD concluded that the Individual’s PEth level was consistent with consumption of “between 4 drinks/day . . . and 5 or more drinks/day” and that the Individual likely consumed “alcohol moderately to heavily.”¹⁰ Ex. 10 at 90.

⁹ PEth is a biomarker for alcohol consumption that can be detected in blood for approximately one month following moderate or greater episodes of alcohol consumption. Ex. 10 at 89–91.

¹⁰ The MD referenced two studies cited in the Journal Article, one of which the Journal Article summarized as finding that a PEth level of 73 ng/mL was consistent with consumption of “up to 4 drinks/day” and the other the Journal Article summarized as finding that a PEth level of 186 ng/mL was consistent with consumption of “[f]ive or more

On June 17, 2025, the DOE Psychologist issued the Report. *Id.* at 84. Therein, relying on the MD’s opinion to find the presence of numerous diagnostic criteria the Individual did not endorse, she opined that the Individual met sufficient criteria for a diagnosis of AUD, Severe, under the *DSM-5-TR*, and that he “reported a pattern of binge drinking multiple times per month.” *Id.* at 82–84; Tr. at 72–74, 80–81 (testifying as to how the results of the PEth test informed her opinion as to the presence of multiple diagnostic criteria). She recommended that the Individual show rehabilitation by abstaining from alcohol for at least twelve months, undergoing monthly PEth testing to demonstrate his abstinence from alcohol, undergoing random workplace alcohol tests, attending an IOP, and attending AA or another alcohol abstinence support group and working the steps of the program under the guidance of a sponsor. Ex. 10 at 84.

In the paragraph of her Report in which she made recommendations for the Individual to demonstrate rehabilitation, the DOE Psychologist indicated that a person with a different name from the Individual should take the recommended actions. *Id.* In her hearing testimony, the DOE Psychologist explained that she had copied and pasted the recommendations she wished to give to the Individual from a prior report and neglected to change the name to the Individual’s. Tr. at 90.

D. Individual’s Recent Alcohol Consumption and Updated Opinion of the DOE Psychologist

The Individual testified that he last consumed alcohol ten days before the hearing when he consumed three beers. *Id.* at 39. He testified to regularly consuming two to four drinks per sitting on days when he was not scheduled to work the following day. *Id.* at 41. He denied recollection of the last day he consumed alcohol to the point of intoxication. *Id.* The Individual testified that he did not believe that he had a problem with alcohol as of the date of the hearing, but that he did have a problem with alcohol “in 2018 and in 2020.” *Id.* at 49.

The Individual testified that he did not follow the DOE Psychologist’s recommendations for two reasons. First, because the paragraph of the Report recommending actions to demonstrate rehabilitation referred to a different person, he was unsure if the recommendations in the Report applied to him. *Id.* at 54. Second, he disagreed with the DOE Psychologist’s conclusion that he was using alcohol maladaptively and believed that complying with the recommendations “would be admitting . . . to something that’s not true.” *Id.* at 56.

The DOE Psychologist opined at the hearing that the Individual had not shown adequate evidence of rehabilitation or reformation because he had not complied with her recommendations. *Id.* at 91. She further opined that his prognosis was poor because the Individual’s ongoing consumption of alcohol, despite having been diagnosed with AUD, placed him at “high risk for having problems with alcohol in the future.” *Id.* at 101–02. She indicated that her recommendation for abstinence

drinks for men . . . on at least *two occasions per month*.” Ex. 10 at 90; Journal Article at 4 (emphasis added). The emphasized portions of the quoted text clearly indicate that the Journal Article did not propose interpreting a PEth level between 73 ng/mL and 186 ng/mL as indicative of anywhere near four to five alcoholic drinks daily. Moreover, the Journal Article is clear that PEth levels are a product of the quantity, recency, and frequency of alcohol consumption and that “[t]he number of ‘drinks/day’ should not be taken literally but only as reflective of research central tendencies.” Journal Article at 5.

from alcohol would have been the same if she had diagnosed the Individual with AUD, Moderate, as had the DOE Consultant, and that controlled drinking is not recommended for any person diagnosed with AUD, Moderate or Severe. *Id.* at 103.

V. ANALYSIS

A. Guideline F

Conditions that could mitigate security concerns under Guideline F include:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- (f) the affluence resulted from a legal source of income; and,
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Adjudicative Guidelines at ¶ 20.

The Individual's failure to meet his financial obligations is longstanding and ongoing. While his divorce was obviously a significant factor in the deterioration of his financial situation due to being ordered to pay child support, pay alimony, and assume sole responsibility for several large debts, his own actions contributed to the negative financial impact of the divorce considering that he admitted that he and his wife lived above their means during their marriage. Moreover, only some of the Individual's delinquent debts were assigned to him through the divorce proceedings; the majority of the delinquent debts the Individual currently owes fell into delinquency later as he repeatedly lost employment as a result of his own actions. Even since the Individual obtained stable

employment with his current employer, he has allowed new debts to fall into delinquency. Considering the Individual's pattern of not meeting his financial obligations, I cannot find that the delinquencies occurred under such circumstances that they are unlikely to recur and do not cast doubt on the Individual's judgment. Accordingly, I find the first mitigating condition inapplicable. *Id.* at ¶ 20(a).

Turning to the second mitigating condition, the Individual's divorce was certainly an event largely beyond his control that contributed to some of his financial difficulties. However, since that time the Individual has lost multiple jobs as a result of his own actions. These job losses were within his control, and the Individual's irresponsibility that contributed to these events weighs against finding the second mitigating condition applicable. *See* 10 C.F.R. § 710.7(c) (requiring consideration of, among other things, "the circumstances surrounding the conduct" in applying the mitigating conditions). Moreover, although the Individual has been employed by a DOE contractor for nearly two years, he has made only minimal progress towards resolving his delinquent debts. Despite residing with his parents, and thus having no housing expenses, he has paid off only a small fraction of what he owes and has not made any demonstrable efforts to resolve the debts that remain outstanding. Further, he has incurred additional delinquent debt. Considering that the Individual exacerbated his financial difficulties with his poor employment record and has not significantly worked to address his delinquent debts despite the apparent ability to do so, I find that he has not acted responsibly under the circumstances and therefore that the second mitigating condition is inapplicable. Adjudicative Guidelines at ¶ 20(b).

The third mitigating condition is inapplicable because the Individual did not claim to have received financial counseling and, even if he had, it is apparent from his most recent credit report that his financial problems are not resolved. *Id.* at ¶ 20(c).

As described above, the Individual has paid off only four of his delinquent debts representing a small fraction of the total amount that he owes. Despite nearly two continuous years of stable employment with the DOE contractor and not having any housing expenses due to residing with his parents, he has not paid off the majority of his debts and has not brought forward any evidence of having entered into and adhered to payment plans with his other creditors. Accordingly, the fourth mitigating condition is inapplicable. *Id.* at ¶ 20(d).

Other than the duplicate debts described above, the Individual only disputed owing one of his delinquent debts. As the Individual does not dispute that he owes the majority of his delinquent debts, and he brought forward no evidence to substantiate his dispute concerning the other debt, I find the fifth mitigating condition inapplicable. *Id.* at ¶ 20(e).

The remaining two mitigating conditions are irrelevant to the facts of this case because the LSO did not allege that the Individual displayed unexplained affluence or that he failed to meet his tax obligations. *Id.* at ¶ 20(f)–(g).

Having concluded that none of the mitigating conditions are applicable, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline F.

B. 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.

Id. at ¶ 23.

Before addressing the mitigating conditions, I will first address issues related to the Report. The DOE Psychologist relied heavily on the MD's interpretation of the results of PEth test, which she understood to show that the Individual had underreported his alcohol consumption in the month prior to the evaluation, in forming her diagnostic opinion. However, the usual level of alcohol consumption that the Individual reported to the DOE Psychologist – two to three alcoholic drinks up to twice weekly – is similar to the interpretative guidance of two to four drinks several days per week for PEth results between 20–200 ng/mL from the Journal Article. Considering the DOE Psychologist's careless error in her preparation of the recommendations paragraph of the Report, and the fact that the Individual's self-described pattern of alcohol consumption was roughly consistent with the interpretive guidance in the Journal Article, I have reason to doubt that the DOE Psychologist's transcription of the Individual's self-reported alcohol consumption in the month prior to the clinical interview was accurate. Moreover, the opinion of the MD who interpreted the PEth test, on which the DOE Psychologist relied in forming her opinion, was internally contradictory and appeared to draw inferences contrary to those suggested by the Journal Article he relied on. These considerations suggest a distinct possibility that the DOE Psychologist, relying on a flawed inference that the Individual underreported his alcohol consumption based on the MD's interpretation of the PEth test, found more AUD diagnostic criteria present than were warranted and over-diagnosed the severity of the Individual's AUD.

However, despite the aforementioned concerns regarding the reliability of the Report, there is no serious basis to dispute that the Individual met sufficient criteria for a diagnosis of at least AUD, Moderate, at some point in the past. The Individual himself agreed that he had a "problem" with alcohol as recently as 2020 and his behaviors at that time that culminated in his resignation in lieu of termination after a second positive workplace alcohol test are more than sufficient to support

the diagnosis of the DOE Consultant. Considering that the DOE Psychologist would not have modified her recommendation related to abstinence even if the Individual should have been diagnosed with AUD, Moderate, as per the DOE Consultant's opinion, I find that any defects in the Report do not meaningfully affect the security concerns presented by the Individual's AUD diagnosis.

Turning to the mitigating conditions, the Individual's alcohol misuse was neither infrequent nor occurred under unusual circumstances. Rather, on multiple occasions in the past, the Individual's drinking escalated to highly concerning levels as he struggled to deal with stressors in his home life. Considering this pattern, and the absence of evidence that the Individual has developed healthy coping methods should he experience similar issues in the future, I harbor significant concern that the Individual is at risk of engaging in maladaptive alcohol use in the future. Moreover, the Individual has not submitted any alcohol testing, testimony from persons familiar with his alcohol consumption habits, or other evidence to demonstrate that his maladaptive alcohol use is not ongoing. Accordingly, I find the first mitigating condition inapplicable. *Id.* at ¶ 23(a).

The second mitigating condition is inapplicable to the facts of this case because, while the Individual acknowledges that he misused alcohol in the past, he does not endorse having current problems with alcohol consumption, has not brought forward evidence of action to overcome such a problem, and continues to consume alcohol despite the DOE Consultant's and DOE Psychologist's recommendations to abstain. Although the Individual claimed that he was unsure if the DOE Psychologist's recommendations applied to him because of the typographical errors in the Report, I find that, considering his history of alcohol-related issues and the fact that the IOP, DOE Consultant, and DOE Psychologist's Report all recommended abstinence from alcohol, the Individual had sufficient notice that he should cease consuming alcohol. *Id.* at ¶ 23(b).

The third mitigating condition is inapplicable because the Individual is not currently receiving alcohol-related treatment and relapsed following previous alcohol-related treatment. *Id.* at ¶ 23(c).

The final mitigating condition is inapplicable because the Individual does not purport to have completed alcohol-related treatment since his prior treatment that failed to address his alcohol misuse, and has not complied with the DOE Consultant's and DOE Psychologist's recommendations to abstain from alcohol. *Id.* at ¶ 23(d).

For the aforementioned reasons, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline G.

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 F and G of the Adjudicative Guidelines. After considering all relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all 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 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.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals