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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: September 6, 2018 ) Case No.: PSH-18-0066  
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Issued: December 11, 2018

**Administrative Judge Decision**

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled, “Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.”<sup>1</sup> For the reasons set forth below, I conclude that the Individual’s security clearance should be restored.

**I. BACKGROUND**

On October 10, 2018, the Individual, a DOE Security Clearance holder, submitted an Incident Report to the Local Security Office (LSO) indicating that, on October 6, 2017, police had arrested the Individual, charged him with Negligent Use of a Deadly Weapon (Intoxication), and transported him to a hospital for involuntarily observation, after the Individual had threatened to beat his minor son, and then while intoxicated and in the possession of a firearm, threatened to commit suicide. Ex. 7 at 4-7. In addition, the LSO was informed that child protection authorities had initiated an investigation of the Individual because of the October 6, 2017, incident and additional information obtained by the police. The LSO conducted a Personnel Security Interview (PSI) of the Individual on January 11, 2018. During this PSI, the Individual admitted a longstanding pattern of excessive alcohol use that had raised the concerns of friends and relatives. He further admitted that he had consumed a large quantity of alcohol prior to the October 6, 2107, incident, and had threatened to commit suicide on at least three occasions, including the night of the incident. Because the background investigation and the PSI raised concerns about the Individual’s alcohol use and psychological state, the LSO asked the Individual to undergo a forensic psychological evaluation by a DOE Psychiatrist (the Psychiatrist). The Psychiatrist conducted an evaluation of the Individual on March 5, 2018, and on March 12, 2018, he issued a report concluding that the Individual meets

<sup>1</sup> Under the regulations, “Access authorization” means 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). Such authorization will also be referred to in this Decision as a security clearance.

the criteria set forth in *Diagnostic and Statistical Manual of the American Psychiatric Association, Fifth Edition (DSM-5)* for Alcohol Use Disorder - moderate, in early remission.”<sup>2</sup> Ex. 9 at 13. The Psychiatrist further opined that this disorder can impair the Individual’s judgment, reliability, stability, and trustworthiness. The LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his eligibility for a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter on September 7, 2018. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), I took testimony from the Individual, his spouse (the Spouse), his counselor (the Counselor), and the Psychiatrist. *See* Transcript of Hearing, Case No. PSH-18-0066 (hereinafter cited as “Tr.”). The LSO submitted 12 exhibits, marked as Exhibits 1 through 12 (hereinafter cited as “Ex.”). The Individual submitted 11 exhibits, marked as Exhibits A through K.

## **II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. That information pertains to Guidelines G, and J of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines).

Under Guideline G: Alcohol Consumption, the LSO alleged that the Individual has been diagnosed by the Psychiatrist with Alcohol Use Disorder, Moderate, under the DSM-5, without adequate evidence of rehabilitation or reformation. The LSO further alleged that the Individual has a history of an alcohol-related arrest and involuntary hospitalization, three incidents where he threatened to commit suicide while under the influence of alcohol, and two incidents of threatened or actual physical abuse of his minor children while under the influence of alcohol. In addition, the Individual admitted that he has a problem with alcohol and has reported that his friends and family have expressed concerns about his problematic use of alcohol. This information adequately justifies the LSO’s invocation of Guideline G and raises significant security concerns.

The Adjudicative Guidelines state: “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.” Guideline G at ¶ 21. Among those conditions set forth in the Guidelines that could raise a disqualifying security concern are (1) “alcohol-related incidents away from work, such as . . . child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder.” Guideline G at § 22(a); (2) “habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.” Guideline G at § 22(c); and (3) “diagnosis by a duly qualified

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<sup>2</sup> The Psychiatrist did not, however, conclude that the Individual had any emotional, mental, or personality disorders or conditions that could impair his judgement, stability, reliability, or trustworthiness, other than his Alcohol Use Disorder. Ex. 9 at 14.

medical or mental health professional . . . of [an] alcohol use disorder.” Guideline G at ¶ 22(d). These allegations adequately justify the LSO’s invocation of Guideline G.

Under Guideline J: Criminal Conduct, the LSO alleges that police detained and charged the Individual with Negligent Use of a Deadly Weapon (Intoxication) as a result of the October 6, 2017, incident. The LSO further alleged that the Individual had been the subject of an investigation by child protection authorities because he had threatened to beat his son during that incident and had battered his minor daughter during a previous incident. Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness and calls into question a person’s ability or willingness to comply with laws, rules, and regulations. Guideline J at ¶ 30. These allegations of criminal activity adequately justify the LSO’s invocation of Guideline J.

### **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), cert. denied, 499 U.S. 905 (1991) (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 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. 10 C.F.R. § 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**

On October 6, 2017, the Individual became intoxicated, after consuming approximately seven units of alcohol. Ex. 11 at 12, 16. The Individual became upset with his minor son, and threatened to beat him. Ex. 7 at 6. An argument ensued between the Individual and the Spouse. Ex. 11 at 12. During this argument, in the presence of his minor daughter, the Individual pointed a firearm at his head and threatened to kill himself. Ex. 7 at 6. The Individual’s minor son contacted the local police to report that the Individual was threatening to commit suicide. Ex. 8 at 2; Ex. 7 at 4. After, interviewing the Individual, his spouse, and his children, the police decided to involuntarily transport the Individual to a hospital where he was kept overnight for evaluation and observation. Ex. 7 at 7; Ex. 11 at 12. Because the Individual was in possession of a firearm while intoxicated,

the police charged him with Negligent Use of a Deadly Weapon. Ex. 7 at 7; Ex. 11 at 22. This charge was ultimately dismissed on December 11, 2017. Ex. B. However, because the police were informed that the Individual had threatened to beat their minor son, and previously “abused” their minor daughter, child protection authorities began an investigation of the Individual and the Spouse. Ex. C; Ex. 7 at 6. This investigation substantiated “the allegations of physical neglect due to alcohol abuse adult, physical abuse due to emotional abuse by [the Individual] toward [his three minor children].” Ex. C. The child protection authorities recommended that the Individual undergo assessments for “substance abuse” and “mental health/domestic violence.” Ex. C.

Because of the security concerns raised by the October 6, 2017, incident, the ensuing arrest, the involuntary hospitalization, and the child protection investigation, the LSO conducted a PSI of the Individual on January 11, 2018. During the PSI, the Individual admitted that he had consumed “a few too many drinks,” on October 6, 2017, estimating that he consumed about six beers and one whiskey prior to the incident. Ex. 11 at 12, 16. He then engaged in a loud argument with the Spouse during which, he reported: “I grabbed a pistol, threatened to harm myself, at which point my son called the police, they responded. I was remanded to, into protective custody, sent to the hospital . . . .”<sup>3</sup> Ex. 11 at 12. The Individual acknowledged that he had lost control during the incident and attributed his behavior to his Prednisone treatment and alcohol abuse.<sup>4</sup> Ex. 11 at 30-31. The Individual acknowledged that he has an alcohol problem and reported that his counselor had diagnosed him with “alcohol abuse.” Ex. 11 at 36, 93. The Individual reported that he “quit drinking,” and had not consumed alcohol since the night of the October 6, 2017, incident. Ex. 11 at 13, 29, 37, 40, 70, 93-94. The Individual further reported that he had begun counseling and been working with his Employee Assistance Program (EAP) in order to address his alcohol problem, as well as issues resulting from his traumatic childhood. Ex. 11 at 13, 20. The Individual also reported that he had completed a series of six alcohol education meetings provided by the EAP. Ex. 11 at 97. The Individual reported that his abstinence from alcohol has improved his marriage, and that he was now happier and “having more fun” as a result of quitting drinking. Ex. 11 at 70, 96. The Individual reported that child protective services had investigated allegations that he had abused his children, and that the allegations had been substantiated. Ex. 11 at 19. As a result, the Individual and his family were engaged in individual and family counseling. Ex. 11 at 19-20, 28-29, 42.

The Individual reported that the criminal charges against him had been dismissed. Ex. 11 at 37. He further reported that the child protection concerns had been resolved to the authorities’

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<sup>3</sup> The Individual admitted that he had a firearm and was threatening to use it on himself on the night of October 6, 2017, and on at least one other occasion. Ex. 11 at 51, 73.

<sup>4</sup> The Individual reported that he had been informed by a medical professional that his behavior may have resulted from a Prednisone treatment which had begun on October 3, 2017. Ex. 8 at 2. This assertion was corroborated by the progress notes prepared by an attending physician during his October 6, 2018, hospitalization, in which the physician states: “He had taken Prednisone for 2-3 days, strongly suggesting that this may have had something to do with his dramatic mood changes and emotional instability . . . .” Ex. 7 at 8. The physician further reported that the Individual reported that alcohol was involved in the incident. Ex. 7 at 8. However, the Psychiatrist convincingly opined that it was highly unlikely that the Individual’s suicidal behaviors were caused by his Prednisone therapy, but rather, were likely the result of alcohol intoxication, noting that “suicidality is fairly common with alcohol intoxication—which commonly increases depression and reduces impulse control.” Ex. 9 at 10. The Psychiatrist further noted that the Individual’s previous incidents in which he threatened to commit suicide occurred when the Individual had been intoxicated but not undergoing Prednisone therapy. Ex. 9 at 10. Accordingly, I am convinced that the Individual’s Prednisone therapy is not likely a causative factor for the October 6, 2017, incident.

satisfaction. Ex. 11 at 42. The Individual also acknowledged that he has an anger management problem. Ex. 11 at 48. The Individual admitted that, about a year prior to the October 6, 2107, incident, he had “went a little bit overboard” and “got a little carried away” when he spanked his 12 year old daughter “more than would have been appropriate” with a belt. Ex. 11 at 43-44. The Individual admitted he had been drinking when he when spanking his 12 year old daughter. Ex. 11 at 43-44. The Individual noted that this kind of behavior has only occurred when he is drinking. Ex. 11 at 48-49. The Individual further noted that he began abusing alcohol in college, and quit drinking for two to four years when his fraternity brothers expressed concerns about his drinking. Ex. 11 at 60. He claimed that his drinking had escalated the past summer because of an injury incurred while cycling. Ex. 11 at 63-64. He stated that he would drink from three to seven drinks an evening when he was not on call for work. Ex. 11 at 64-65. The Individual reported that his mother, a DOE psychologist, and his spouse had expressed concerns about his alcohol consumption and that he began to hide his alcohol use from his spouse. Ex. 11 at 81-83, 87.

Because the PSI did not resolve the security concerns raised by the October 6, 2017, incident, the LSO requested that the Individual be evaluated by the Psychiatrist. The Psychiatrist evaluated the Individual on March 5, 2018, and issued his Psychiatric Assessment of the Individual on March 12, 2018. Ex. 9 at 1-2. In his Psychiatric Assessment, he diagnosed the Individual with Alcohol Use Disorder, Moderate, in early remission.”<sup>5</sup> Ex. 9 at 1, 12. The Psychiatrist further opined that the Individual was not rehabilitated or reformed from this condition, noting that the Individual had “a persistent, serious, sometimes life-threatening alcohol use disorder,” had only abstained from alcohol use for six months, and had only completed six months of his treatment program.<sup>6</sup> Ex. 9 at 13-14. The Psychiatrist further opined that “continuing [the Individual’s] weekly individual substance abuse counseling-with maintenance of abstinence from alcohol-for a total of one year would provide adequate evidence of rehabilitation or reformation from his alcohol use disorder.” Ex. 9 at 14. The Psychiatrist stated that “[The Individual] does not have any emotional, mental, or personality condition or conditions that can continue to impair his judgment, stability, reliability or trustworthy not otherwise addressed above.” Ex. 9 at 14.

## **V. ANALYSIS**

### **Guideline G Concerns**

At the hearing, the Individual presented testimony showing that he recognized that he has an alcohol use disorder and must permanently abstain from the use of alcohol. To this end the

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<sup>5</sup> The Individual informed the Psychiatrist that he last consumed alcohol on October 6, 2017. Ex. 9 at 8. The Psychiatrist noted that he had administered laboratory tests to the Individual in order to deter whether the Individual had been consuming alcohol, and that the results of this testing indicated that “he has not consumed alcohol within about 80 hours of the testing, and that he has not engaged in regular, heavy drinking within a few weeks of the testing.” Ex. 9 at 11-12.

<sup>6</sup> The Psychiatrist noted that the Individual had begun individual counseling on October 13, 2017. Ex. 9 at 7.

Individual has convincingly testified that he has abstained from alcohol use since October 6, 2017, (over 13 months prior to the hearing). Tr. at 67. This testimony has been corroborated by laboratory testing,<sup>7</sup> and the testimony of the Spouse. Tr. at 17-18, 20-21, 51. The Individual has also provided testimony and evidentiary support for additional steps he has taken to address his Alcohol Use Disorder, including undergoing individual counseling, family therapy, receiving alcohol education counseling, and attending Alcoholics Anonymous (AA) meetings.

The Spouse testified at the hearing on the Individual's behalf. The Spouse testified that the Individual recognizes that he has an alcohol problem, no longer wishes to use alcohol, and plans to abstain from future alcohol use. Tr. at 45-46, 51-52. She further testified that the Individual has discontinued his alcohol use and has implemented several strategies to avoid alcohol, including changing his diet, exercising, attending AA meetings, and working with his doctor to address his asthma. Tr. at 18, 52. Most importantly, the Individual has been working with the Counselor to address his alcohol problem. Tr. at 18. She testified that that they have removed all alcohol from their home, and that she has also stopped drinking. Tr. at 18, 22. The Spouse testified that as a result of the Individual's counseling and abstinence from alcohol their family life and marriage have improved. Tr. at 18-22, 48. The Individual's relationship with his children has improved. Tr. at 19-20. She reported that the Individual's temperament has improved and he is less prone to anger. Tr. at 18-19. She believes that alcohol was a contributing factor to the October 6, 2017, incident, noting that she has not observed the Individual exhibit suicidal behavior when he was not under the influence of alcohol.<sup>8</sup> Tr. at 26. The Spouse testified that the Individual had been using alcohol when he hit his daughter with a belt. Tr. at 32-33. The Spouse testified that their children were afraid of the Individual when he was using alcohol, but are now less afraid of him, although they are still somewhat wary of him. Tr. at 34, 41-48. The Spouse acknowledged that the October 6, 2017, incident was not the only occasion in which the Individual threatened to commit suicide. Tr. at 34. She testified that their children and their family received counseling as a result of the October 6, 2017, incident. Tr. at 41.

The Individual testified that he does not dispute the Psychiatrist's conclusion that he has an alcohol use disorder. Tr. at 72, 148. The Individual testified that he met with an EAP Counselor for six sessions of alcohol education. Tr. at 64. The EAP Counselor referred the Individual to the Counselor for individual counseling, which the Individual began on a weekly basis, and he has continued undergoing individual counseling for approximately a year.<sup>9</sup> Tr. at 64-65. Through his counseling, the Individual learned how "big of a problem" alcohol has been in his life, that he

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<sup>7</sup> In addition to the laboratory testing administered at the request of the Psychiatrist, the Individual has undergone a series of tests designed to detect alcohol use on his part, each of which did not detect alcohol use on the Individual's part. These tests occurred on October 16, 2017, October 17, 2017, October 19, 2017, October 25, 2017, October 26, 2017, November 7, 2017, November 21, 2017, November 27, 2017, November 27, 2017, November 30, 2017, December 4, 2017, December 13, 2017, December 16, 2017, December 18, 2017, January 8, 2018, January 16, 2018, January 25, 2018, January 30, 2018, February 5, 2018, February 14, 2018, February 21, 2018, March 1, 2018, March 5, 2018, March 7, 2018, March 15, 2018, May 17, 2018, June 15, 2018, July 16, 2018, August 16, 2018, and September 20, 2018. Ex. H; Ex. I.

<sup>8</sup> The Spouse testified that she believes that the Individual's threats to commit suicide were not motivated by an intention to harm himself, but rather "an intent to control the situation." Tr. at 25.

<sup>9</sup> The Individual noted that his counseling had initially focused on "unresolved trauma dealing with my father." Tr. at 74.

cannot afford to use alcohol again, and that one drink could harm him. Tr. at 75. He stated that he realized that: "I was an alcoholic, right, that I could not control my impulses with alcohol without learning additional techniques and learning additional tools to move forward . . . I knew I had a problem and I had to do something about it." Tr. at 85, 148. He testified that he has "made a commitment to abstain from alcohol permanently." Tr. at 75, 135. The Individual testified that he last used alcohol on October 6, 2017. Tr. at 67. The Individual testified that he has developed a relapse prevention plan. Tr. at 129. The Individual identified his spouse, his children, his mother, his friends, and his AA meetings as his support network. Tr. at 130-132. The Individual testified that he is happier, now that he has been abstaining from alcohol. Tr. at 153.

In addition to acknowledging his Alcohol Use Disorder, the Individual acknowledged his past actions and the role played by alcohol in those actions, and he has recognized the need to change. Tr. at 80. The Individual admitted that, "I threatened to kill myself in front of my children, in front of my wife." Tr. at 78. The Individual further admitted there were multiple occasions on which he would become intoxicated and threaten suicide, and on at least one other occasion besides October 6, 2017, a weapon was involved. Tr. at 87. The Individual admitted spanking his daughter, stating "I got angry, and I went and spanked [her], and I did not exercise the kind of control a parent should exercise. I spanked her harder than I should have. I feel -- still feel really bad about it. It's no wonder my kids said that they're afraid of me when I drank." Tr. at 88. The Individual testified that the child protection authorities substantiated the child abuse allegations against the Individual. Tr. at 60. The Individual testified that the child protection authorities made several recommendations, including counseling for the family members. Tr. at 60-61. The Individual and his family complied with these recommendations. As a result, the child protection authorities have closed the case. Tr. at 61-63.<sup>10</sup> The Individual testified that his relationships with his spouse and children have improved. Tr. at 132-134.

The Counselor, a licensed clinical mental health counselor, testified on the Individual's behalf at the hearing. Tr. at 98. The Counselor testified that he first met with the Individual on October 27, 2107. Tr. at 98. The Counselor testified that he diagnosed the Individual with "an unspecified trauma-related disorder and an alcohol use disorder of moderate severity."<sup>11</sup> Tr. at 99. Accordingly, he recommended that "the Individual undergo individual therapy for three to six months of duration, to focus on resolving the childhood events and to deal with the substance use, the alcohol use." Tr. at 99. At the time of the hearing, the Individual had undergone a year of therapy.<sup>12</sup> Tr. at 102. The Counselor opined that the Individual's treatment had been very successful, and that the Individual had been able to maintain abstinence from alcohol. Tr. at 103. The Counselor noted that the Individual had been very diligent in addressing his disorders and had met all of his treatment goals. Tr. at 103, 105, 110-114. The Counselor believes that the Individual

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<sup>10</sup> This testimony is corroborated by Ex. C.

<sup>11</sup> The Counselor testified that he agreed with the conclusions and recommendations in the Psychiatrist's report. Tr. at 108.

<sup>12</sup> The Counselor testified that the Individual had completed the Counselor's treatment program, and had established a relapse prevention program to help him avoid returning to drinking in the future. Tr. at 103-07. The Counselor indicated that the program included daily reminders of abstinence from alcohol, establishing a network of at least two (2) to three (3) supportive people the Individual could call if he experienced cravings for alcohol, and ongoing attendance of AA meetings. Tr. at 106.

has a good support network consisting of his spouse and AA. Tr. at 106-107, 120. The Counselor opined that the Individual's risk of relapse after a year of sobriety and treatment is now very low, because of the Individual's demonstrated ability to maintain his sobriety for a year, and the commitment and engagement in his treatment program that the Individual has demonstrated. Tr. at 108-109. He further opined that the Individual is now in sustained and complete remission. Tr. at 120-121.

The Psychiatrist observed the testimony of the other witnesses before he testified. He testified that he "now believe[s] that [the Individual's] alcohol use disorder is in complete, full remission and that his prognosis for maintaining his sobriety is good." Tr. at 161, 166. The Psychiatrist noted that Individual has now shown that he can remain sober for a full year, which the Psychiatrist opined was very important, and is therefore now in sustained remission. Tr. at 162, 167-18. The Psychiatrist further noted that the Individual is in a good monitoring program. The monitoring program results, along with his spouse's testimony, raise the confidence level that the Individual has not been using alcohol. Tr. at 163. The Individual's acceptance of the fact that he has an alcohol problem also provides additional confidence in his rehabilitation and reformation. Tr. at 163. The Psychiatrist was also encouraged by the Individual's participation in AA. Tr. at 165.

Guideline G sets forth four conditions that can mitigate security concerns arising from alcohol use, three of which are present in the instant case, specifically those mitigating conditions set forth at §§ 23(b), (c), and (d). Section 23(b) provides that mitigation may be provided when: "the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of action taken to overcome this problem, and has demonstrated a clear and established pattern of . . . abstinence in accordance with treatment recommendations." Section 23(c) provides that mitigation may be provided when: "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." Section 23(b) provides that mitigation may be provided when: "the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of . . . abstinence in accordance with treatment recommendations."

In the present case, the Individual has presented compelling evidence that he has gained the insight and understanding to recognize that he has a problem with alcohol, the destructive role that alcohol has had in his life, and his need to permanently abstain from alcohol use. The Individual has shown that he has taken the appropriate actions to address and treat his Alcohol Use Disorder, Moderate, by obtaining alcohol education counseling, undergoing individual and family counseling, and attending AA meetings. Most importantly, the Individual has shown that these actions have been effective; as demonstrated by his abstinence from alcohol use for 13 months. These actions have convinced the Counselor, and the Psychiatrist that the Individual has been reformed and rehabilitated from his Alcohol Use Disorder, Moderate, and now has a high likelihood of remaining abstinent. Accordingly, I find that the security concerns arising under Guideline G from the Individual's Alcohol Use Disorder, Moderate have been resolved.

### **Guideline J Concerns**

The Individual's history of criminal activity and child abuse raise significant concerns about his judgment, stability, reliability, and trustworthiness. As an initial matter, I note that the criminal



activity exhibited by the Individual has clearly resulted from lapses in his impulse control, rather than from dishonesty, unwillingness to follow rules, or moral turpitude. Each of the Individual's incidences of criminal activity have occurred when he was intoxicated. The testimony of the two mental health professionals at the hearing have convinced me that those losses of impulse control were caused by his alcohol intoxication, and were therefore symptomatic of his Alcohol Use Disorder. The Counselor attributed the October 6, 2017, incident to the Individual's intoxication, and opined that it would not have happened without the Individual's intoxication. Tr. at 115-119. The Psychiatrist testified that, in his opinion,

The criminal issue . . . was very strongly connected to his intoxication. As I recall, he had no other criminal history while sober, is probably the main issue. And it's quite understandable that this impulsive loss of anger control would be related to being intoxicated. And again, he didn't have any such issues when he was not intoxicated. I think that's an important causal element, because if the criminal issues were caused by his alcohol use disorder, which I would say it was, that's very good for the prognosis of no further criminal problems, if he's not going to have any further alcohol use problems, which I would tend to opine would occur.

Tr. at 166-167. Accordingly, I am convinced that as long as the Individual abstains from alcohol use, the defects in judgment, reliability, stability, and trustworthiness that were exhibited during his criminal activity are highly unlikely to recur. Because I have found that the Individual has been reformed or rehabilitated from his alcohol use disorder, and that it is unlikely that he will relapse, I am now convinced that the Individual's criminal activity is unlikely to recur. Guideline J at § 32(a). Accordingly, I find that the security concerns raised under Guideline J have been resolved.

## **VI. CONCLUSION**

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G, and J. After considering all the evidence, both favorable and unfavorable, in a common sense manner, I find that the Individual has sufficiently mitigated the security concerns raised under Guidelines G, and J. Accordingly, the Individual has demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, the Individual's security clearance should be restored. The National Nuclear Security Administration may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine  
Administrative Judge  
Office of Hearings and Appeals