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November 4, 2009

DEPARTMENT OF ENERGY  
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: June 24, 2009

Case Number: TSO-0775

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter "the Individual") for access authorization.<sup>1</sup> This decision will consider whether, based on the testimony and other evidence presented in this proceeding, the Individual's suspended access authorization should be restored. For the reasons detailed below, it is my decision that the Individual's access authorization should be restored.<sup>2</sup>

**I. APPLICABLE REGULATIONS**

The regulations governing the Individual's eligibility are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." Under Part 710, the Department of Energy (DOE) may suspend an individual's access authorization where "information is received that raises a question concerning an individual's continued access authorization eligibility." 10 C.F.R. § 710.10(a). After such derogatory information has been received and a question concerning an individual's eligibility to hold an access authorization has been raised, the burden shifts to the individual to prove that "the grant or restoration of access authorization to the individual would not endanger the common defense and security and would be clearly consistent with the national interest." *See* 10 C.F.R. § 710.27(a). The ultimate decision concerning eligibility is a comprehensive, common sense judgment based on a consideration of all relevant information, favorable and unfavorable. 10 C.F.R. § 710.7(a).

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<sup>1</sup> Access authorization (or security clearance) is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5.

<sup>2</sup> Decisions issued by the Office of Hearings and Appeals (OHA) after November 19, 1996, are available on the OHA website located at <http://www.oha.doe.gov>. The text of a cited decision may be accessed by entering the case number of the decision in the search engine located at <http://www.oha.doe.gov/search.htm>.

## II. BACKGROUND

The Individual is a contractor employee at a DOE facility. The Individual was granted a security clearance in February 1994. Exhibit (Ex.) 8 at 1.

The Individual has a history of alcohol misuse. In 1984, the Individual sought treatment for his alcohol problem. Ex. 3 at 2. In February 1994, as part of an investigation to determine his fitness to receive a security clearance, the local security office (LSO) conducted a Personnel Security Interview (94 PSI). In the 94 PSI, the Individual described his alcohol use pattern and his decision to obtain treatment. With the exception of a relapse, triggered in part by the loss of his son in 1985, the Individual reported that he was continuing his abstinence from alcohol. Ex. 12 at 13.

In 2009, as part of a reinvestigation to determine his continued fitness to hold a security clearance, the LSO discovered that the Individual had resumed consuming alcohol. Ex. 5 at 1. Another Personnel Security Interview was conducted with the Individual in March 2009 (09 PSI). Ex. 11. Because the 09 PSI did not resolve the concerns relating to the Individual's alcohol use, the Individual was referred to a DOE-Contractor Psychologist (DOE Psychologist) for an examination. Ex. 8. In an evaluative report (Report) concerning the Individual's condition, the DOE Psychologist opined that the Individual had used alcohol habitually to excess and that prior to 1985, the Individual suffered from Alcohol Dependence. Ex. 8 at 6. While the Individual, at the time of the evaluation, did not qualify for a psychiatric alcohol diagnosis, the DOE Psychologist found the Individual's use of alcohol had recently increased to almost daily use and that the Individual was psychologically reliant on alcohol. Ex. 8 at 6-7.

Because the Report failed to resolve the derogatory information related to his misuse of alcohol, the Individual's security clearance was suspended and the LSO requested an administrative review regarding the Individual's clearance. The Individual was issued a notification letter on May 5, 2009 (Notification Letter). In the Notification Letter, the Individual was informed that his history of alcohol misuse, his resumption of daily alcohol use in spite of his wife's concern about his alcohol use, his failure to heed a warning from a personal physician to reduce his alcohol consumption, along with the DOE Psychologist's Report finding that he had been a user of alcohol to excess constituted derogatory information under 10 C.F.R. § 710.8(j) and (h) (Criterion J and Criterion H, respectively).<sup>3</sup>

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<sup>3</sup> Criterion H refers to information indicating that an individual has "[a]n illness or mental condition of a nature which, in the opinion of a psychiatrist or licensed clinical psychologist, causes or may cause, a significant defect in judgment or reliability." 10 C.F.R. § 710.8(h). Criterion J refers to information that suggests that an individual has "[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse." 10 C.F.R. § 710.8(j).

The Individual requested a hearing. At the hearing, DOE presented one witness, the DOE Psychologist. The Individual offered his own testimony, as well as that of his wife, two Managers (Managers 1 and 2), an Employee Assistance Program Psychologist (EAP Psychologist) and a consulting psychiatrist (Psychiatrist). The DOE submitted 13 exhibits (Exs. 1-13) for the record. The Individual submitted five exhibits (Ind. Exs. A-E).

### **III. FACTUAL FINDINGS**

The facts in this case are essentially not in dispute. A brief summary is provided below.

The Individual began to consume alcohol while attending high school. Ex. 12 at 19. In 1984, at the age of 26, he believed that his alcohol consumption had “got[ten] out of hand.” Ex. 12 at 19. The Individual, who was married and had one child, entered into an alcohol treatment facility and completed a 30-day treatment program. Ex. 12 at 19-20. After completing the program, the Individual abstained from alcohol for approximately six months until the death of his one-year old son from severe birth defects. Ex. 12 at 21. The Individual then consulted his personal physician concerning his relapse. The Physician subsequently prescribed the medication Antabuse to the Individual. Ex. 12 at 21. The Individual took Antabuse for approximately three months during which time he again stopped consuming alcohol. Ex. 12 at 22. The Individual abstained from alcohol consumption for approximately 21 years until 2005.

In 2004, the Individual was found to have metastatic neck cancer. Transcript of Hearing (Tr.) at 18, 26. He was subsequently treated with radiation. One of the side effects of the radiation treatment was a permanent reduction in saliva production. Tr. at 18-19. In an attempt to increase his saliva production, the Individual decided to consume a glass of wine with his meals. Tr. at 18-19. He subsequently began to also consume beer in order to regain weight lost as a result of radiation treatment. Ex. 8 at 3. His wife became concerned when the Individual began to consume alcohol again, since she feared he might return to alcohol misuse. Tr. at 22.

In 2009, the Individual’s physician informed the Individual that certain liver enzyme tests were elevated and recommended that the Individual reduce his alcohol consumption. Ex. 11 at 29-30. In response, the Individual stopped consuming wine. Ex. 11 at 29-30.

In the 09 PSI, the Individual attributed his decision to consume alcohol again, despite his prior history, to his “being in a different place” where, unlike in 1984, he did not feel the need to be intoxicated. Ex. 11 at 13. His reported consumption was two or three beers every evening. Ex. 11 at 15. He also reported that occasionally he would become “slightly inebriated.” Ex. 11 at 23.

Pursuant to a reinvestigation for a security clearance, the Individual was referred to the DOE Psychologist for an evaluation. In his Report, the DOE Psychologist found that the Individual had been a user of alcohol habitually to excess. At the time of the evaluation, the DOE Psychologist found that the Individual did not qualify for a psychiatric alcohol diagnosis. Nonetheless, the DOE Psychologist found the Individual’s use of alcohol had recently increased to almost daily use. He also found that that the Individual was psychologically reliant on alcohol

and was at risk of falling into uncontrolled alcohol use should he be subject to psychological trauma. Ex. 8 at 6-7.

Shortly after consulting with his Psychiatrist in April 2009, the Individual decided to again abstain from consuming alcohol. Tr. at 93.

#### **IV. HEARING TESTIMONY**

##### **A. Individual's Wife**

The Individual's wife has known the Individual for 30 years. Tr. at 17. She believes that the Individual is a good husband and father. Tr. at 21-22. She testified that the Individual had been diagnosed with neck cancer in 2004. Tr. at 18, 26. One of the side effects from the disease has been the Individual's lack of saliva production. Tr. at 18. She remembers that the Individual started to consume wine in order to try to increase his saliva production. Tr. at 18-19.<sup>4</sup> She confirmed that when the Individual began to consume alcohol, she was concerned that his consumption of alcohol might become uncontrollable. Tr. at 22-23. However, she also believes that the Individual controlled his alcohol consumption during this period, 2005-2009. Tr. at 22. She has never observed the Individual in an intoxicated state during this period. Tr. at 173.

The Individual's wife also testified that the Individual made the decision to stop consuming alcohol for fear that continued alcohol consumption could jeopardize his career. Tr. at 29. His decision was reinforced by his consulting the Psychiatrist, who asked the Individual why he would want to endanger his sobriety. Tr. at 29. The Individual now attends AA meetings twice a week. The Individual's wife also testified as follows regarding the Individual's current abstinence period:

I think since he started -- stopped drinking, I think he feels like it's been a -- it's like a blessing that he quit drinking, and that I think he feels like more his normal self, and that it was probably a good thing and -- but I don't think he ever really felt like he had the same problems that he had before when he was drinking.

Tr. at 29-30.

##### **B. Manager 1 and Manager 2**

Manager 1 and Manager 2 testified that the Individual's work performance is excellent. Tr. at 66-67 (Manager 1); Tr. at 77 (Manager 2). Both testified that, given their knowledge of the Individual, they would have no concerns about national security if the Individual's clearance were restored. Tr. at 73 (Manager 1); Tr. at 78 (Manager 2). Neither supervisor has seen the Individual report to work under the influence of alcohol or take excessive amounts of sick leave.

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<sup>4</sup> She also testified that his decision to resume consuming alcohol in 2005 had not been triggered by the stress of learning about his diagnosis. Likewise, the Individual did not resort to drinking alcohol when recently informed that there was a possibility that his cancer may have metastasized. Tr. at 20-21.

Tr. at 70, 71 (Manager 1); Tr. at 79, 82 (Manager 2). While Manager 1 had not socialized with the Individual outside of work, Manager 2 has socialized with the Individual on a couple of fishing trips. Tr. at 70 (Manager 1); Tr. at 82 (Manager 2). During none of the fishing trips Manager 2 took with the Individual did he observe the Individual consume alcohol. Tr. 82-83.

### **C. The Individual**

The Individual has worked at the DOE facility since 1993. Tr. at 87. As of the date of the hearing, he believed that he still has an alcohol problem. Tr. at 86. The Individual testified that he began to consume wine in 2005 because he believed that wine contained anti-oxidants that would be beneficial and that it would help his taste buds and saliva production recover from cancer treatment. Tr. at 88. Additionally, he believed consuming alcohol would help him gain weight. Tr. at 88.<sup>5</sup>

When he made the decision to resume consuming alcohol after 22 years of abstinence, the Individual had forgotten how his prior alcohol misuse had adversely affected his life. Tr. at 91. He did make the decision to carefully monitor his alcohol use to ensure it did not “get out of hand.” Tr. at 92. He now realizes that alcohol use itself can facilitate a self-deception that alcohol use is acceptable. Tr. at 92.

Once the Individual received the DOE Psychologist’s Report, he decided to consult with the EAP Psychologist and his Psychiatrist. Tr. at 93. Each of these professionals informed him that he should not be consuming alcohol and, consequently, he decided to again stop consuming alcohol. Tr. at 93. His last consumption of alcohol was on May 14, 2009. Tr. at 104-05. The Individual now believes that he “cannot ever start drinking again.” Tr. at 94. Further, he believes

[A]ll this trouble has started when I started drinking again. It's just evident to me that it's the root of all evil. I will not drink again. The problems it's caused with my job, with, you know, my family, it's just not worth it. I'm done.

Tr. at 100-01.

The Individual also began to attend Alcoholics Anonymous meetings. Tr. at 94. He speaks at each meeting he attends although “it’s pretty hard to speak in an AA meeting and tell people that you began drinking again after 22 [sic] years.” Tr. at 94.<sup>6</sup> As additional evidence, the Individual produced his “90-day” AA coin. Tr. at 94-95.<sup>7</sup> Unlike when he received treatment in 1984, the Individual is committed to fully work at the AA program of recovery. Tr. at 94. In contrast to his

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<sup>5</sup> The Individual weighed 120 pounds after his treatment for cancer.

<sup>6</sup> From the evidence in this case, it appears the Individual had been abstinent for approximately 21 years.

<sup>7</sup> The Individual’s most recent period of abstinence is actually longer than 90 days but, for ease of calculation, the Individual has defined his start date as May 30, 2009. Tr. at 95. *See* Tr. at 105 (date of last alcohol consumption May 14, 2009).

first attempt with AA in 1984, when he worked some steps in “ten minutes,” he is currently working thoroughly on step one of AA’s 12-step program. Tr. at 94-95.<sup>8</sup> He has also obtained an AA sponsor who himself has 13 years of sobriety. Tr. at 96. He plans to keep attending AA for the rest of his life. Tr. at 97.

The Individual is also seeing his Psychiatrist once a month. Tr. at 98. The Psychiatrist refused to accept any of the Individual’s rationales for resuming consuming alcohol and challenged the Individual to immediately quit consuming alcohol. Tr. at 99. While the Psychiatrist and the Individual have not set up a long-term treatment plan, the Individual would call the Psychiatrist if he felt an urge to consume alcohol again. Tr. at 99.

The Individual also testified as to his consultation with the DOE facility’s EAP Psychologist. Tr. at 100. He speaks to the EAP Psychologist on a daily basis and plans to consult with the EAP Psychologist indefinitely. Tr. at 100.

#### **D. EAP Psychologist**

The EAP Psychologist testified that the Individual contacted him in May 2009 to inquire about enrolling in the DOE’s facility’s recovery program and to sign a recovery agreement. Tr. at 48-49. The EAP Psychologist described the facility’s recovery program as encompassing 12 unannounced drug and alcohol urine tests, as well as a referral for an independent assessment by a substance abuse professional. Tr. at 50. In the Individual’s case, this referral was not necessary, since the Individual was already under the care of the Psychiatrist. Tr. at 50. As of the date of the hearing, the Individual had undergone three urine tests, all of which were negative for alcohol or drugs. Tr. at 50; Ind. Ex. B. Additionally, employees in the recovery program sign a formal “Recovery Agreement” lasting for one year.<sup>9</sup> Tr. at 53; *see* Ind. Ex. E.

The EAP Psychologist has met with the Individual four times. Tr. at 51. In the opinion of the EAP Psychologist, the Individual is doing “very well.” Tr. at 51. The Individual has been cooperative, demonstrated good communication and has been prompt in reporting for urine tests. Tr. at 51. He believes that the Individual is committed to AA participation and in maintaining his sobriety. Tr. at 51. He believes that the Individual would benefit with a long-term involvement with AA. Tr. at 55.

With regard to the DOE Psychologist’s Report, the EAP Psychologist concurred with his opinion regarding the Individual’s condition and the fact the Individual does not meet any diagnostic criteria for an alcohol disorder. Tr. at 52. He also agreed with the assessment that the Individual was consuming alcohol to excess in the years prior to their meeting. Tr. at 52-53. One of the reasons the Individual began to consume alcohol was that he “forgot” the lessons taught to him in 1984 during his initial treatment for alcohol misuse and slipped into patterns of denial. Tr. at 55. In the EAP Psychologist’s opinion, he has reincorporated the message that alcohol use is not acceptable. Tr. at 59-60.

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<sup>8</sup> Step one is for an individual to admit that he or she is powerless over alcohol. Tr. at 95.

<sup>9</sup> The EAP agreement specifies, among other things, that the Individual will consent to random urine tests, attend AA meetings twice a week, and meet with the EAP Psychologist at least once a month. Ind. Ex. E.

As for the Individual's chance of relapsing into excessive or problematic consumption of alcohol, the EAP Psychologist believes that the odds are "pretty low" and that he has an "excellent chance at long-term success." Tr. at 55-56. In support of his opinion, the EAP Psychologist pointed out that the Individual had a period of sobriety that lasted more than 20 years. Tr. at 55-56. Additionally, the Individual is engaged with all of the elements of the recovery program, has significant social support, and is committed to his job at the facility. Tr. at 63.

### **E. The Psychiatrist**

The Psychiatrist testified as to the Individual's initial bout with alcohol misuse. The Individual had experienced excessive drinking for nine months prior to voluntarily seeking a treatment program in 1984. Tr. at 109. Compared to many alcoholics, this was a relatively short period of time. Also remarkable was the fact the Individual himself sought treatment. Tr. at 109. In evaluating the Individual, the Psychiatrist noted that his consumption of alcohol after his long period of abstinence was not very excessive. Individuals who are "really sick" with alcoholism could not sustain the level of alcohol consumption that the Individual exhibited without a profound relapse. Tr. at 111-12. In the Individual's case, even with his recent prior level of consumption, he has not demonstrated a diagnosable alcohol disorder. Tr. at 111-12. In support of his finding that the Individual's condition was not severe, the Psychiatrist testified:

The other thing that I -- I just want to say is that I've done a number of these hearings in the past, and some of the cases that I've been involved in have been relatively minor problems, like this one, I would say, in terms of not -- it isn't a minor problem for [the Individual], but from a clinical point of view, it's a minor-- it's not a very severe problem, and then some others have been very severe problems, and so I have some perspective that way in terms of this whole situation.

....

[T]he fact that he entered treatment voluntarily, the fact that he hadn't gotten to the point where he was hiding his drinking, the fact that he was doing his drinking in the home and with his wife's full knowledge, those are signs that his drinking hadn't gotten as bad as it does for a lot of people.

Tr. at 112-13.

In assessing the Individual's current condition, the Psychiatrist testified:

So I feel, just listening today, even more than I had from the appointments that he and I have had over this four-month period of time, that he is definitely showing evidence of rehabilitation, that he is not a security risk, that he is somebody who, I

think, is incredibly reliable, and I don't have any doubt about his ability to move forward and do well.

....

It's just been my experience that somebody where [the Individual] is going to be a very, very good candidate for getting his clearance back and doing well.

Tr. at 112-13. The Psychiatrist testified that his assessment of the Individual was based upon such facts as the Individual's decision to stop consuming alcohol the day after their first appointment, his attendance twice a week at AA, his obtaining an AA sponsor and his work with that sponsor. Tr. at 122. Additionally during the 20-year period of abstinence, the Individual had a number of stressful events yet did not return to consuming alcohol. Tr. at 139. Additionally, the Individual has not had a number of failed treatment programs which would indicate a severe alcohol problem. Tr. at 140. The Individual also has good insight as to the nature of his alcohol use. Tr. at 141, 145.

He believes that the primary treatment for the Individual will be provided by AA and the EAP Psychologist, but that he will be available at any time for the Individual if he is needed.

The Psychiatrist also noted that, given the Individual's relatively moderate alcohol consumption, he would not have normally recommended AA attendance. Tr. at 116. However, he encouraged the Individual to go to AA to "see if there is anything you can get from it , and if you make a connection, I would consider using it for the - - you know the rest of your life." Tr. at 116. The Psychiatrist was gratified to see the Individual's involvement with AA. Tr. at 116.

The Psychiatrist also testified that abnormal liver enzyme tests are not a reliable indication as to how much alcohol an individual is currently consuming. Tr. at 118. In the Individual's case, the Individual's liver enzyme test results returned to normal after he again stopped consuming alcohol. Tr. at 118; Ind. Ex. B.

#### **F. DOE Psychologist**

The DOE Psychologist testified as to his evaluation of the Individual. He especially noted the Individual's increase in alcohol consumption when his son was born and due to the stress arising from his son's early illness. Tr. at 155. The Individual's initial use of alcohol functioned as a means to numb the pain he was experiencing with life. Tr. at 156-57. He found no evidence of major pathology, and believed the Individual's psychological defenses were functioning reasonably with no evidence of paranoia, denial, blaming or other psychological defenses. Tr. at 157.

He did not believe the Individual began consuming alcohol in 2005 because of the stress of his cancer diagnosis. Tr. at 160. He believes that the alcohol consumption resumed because his illness gave him an "excuse" to begin consuming alcohol. Tr. at 160.

At the time of his examination of the Individual, the DOE Psychologist found that he was consuming alcohol excessively, especially given the fact that the Individual had previously been found to have an alcohol problem. Tr. at 162. Given his then-current alcohol consumption, the DOE Psychologist “did not see him as rehabilitated at that point, although he [the Individual] thought he was under control.” Tr. at 163. The DOE Psychologist consequently recommended that the Individual undertake complete abstinence from alcohol plus participation in AA for 12 months. Tr. at 163. The 12-month period is a standard for sustained remission which research has supported. Tr. at 164.

After listening to all of the testimony presented at the hearing the DOE Psychologist was given an opportunity to make another evaluation of the Individual. Tr. at 165. The DOE Psychologist was convinced that the Individual’s initial use of alcohol in 2005 was in fact to try to heal himself from the side effects of his cancer treatment.<sup>10</sup> Tr. at 166. The DOE Psychologist noted that he had a great deal of confidence in the Individual’s Psychiatrist’s clinical abilities and his intellectual experience of knowledge. Tr. at 166.

The DOE Psychologist also noted several favorable factors regarding the Individual’s unlikely chance of relapse. Tr. at 167. The Individual does not have a sociopathic or antisocial personality. Tr. at 167. The Individual did not use illegal drugs or stimulants with alcohol and entered treatment voluntarily. Tr. at 167. The Individual’s voluntary use of Antabuse after his first relapse and his history of over 20 years of abstinence are also favorable factors regarding the probability of relapse. Tr. at 167. Additionally, the DOE Psychologist testified that the Individual’s age is a favorable factor, since the chance of relapse decreases with age.<sup>11</sup> Tr. at 167-68. The only negative factor against the Individual was the amount of alcohol he used in 1984, approximately a quart of bourbon a day. Tr. at 168.

Given all of these factors, the DOE Psychologist now believes that the Individual currently needs only 10 months of AA participation and abstinence from alcohol to demonstrate rehabilitation or reformation. Tr. at 168. As of the date of the hearing, however, the Individual had not met that standard. Tr. at 168. Consequently, the DOE Psychologist could not make a finding that the Individual was reformed or rehabilitated. Tr. at 169. Nevertheless, the DOE Psychologist believed that the risk of relapse for the Individual was “low.” Tr. at 171.

## V. ANALYSIS

The derogatory information concerning Criteria H and J all centers on the Individual’s history of alcohol misuse, his recent resumption of alcohol consumption, and the DOE Psychologist’s

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<sup>10</sup> The DOE Psychologist testified that on evaluating the Individual, he had doubts about the truthfulness of the Individual’s claim that his initial alcohol use was prompted with his difficulties with saliva production. Tr. at 166. Specifically, he wondered why the Individual did not use liquids like orange juice or candy which are high in caloric value to stimulate saliva and help increase weight. Tr. at 165-66. On learning that the Individual had severe dental problems caused, in part, by his radiation treatments that would be aggravated with such products, the DOE Psychologist’s doubts were resolved. Tr. at 89-90 (Individual’s dental problems); Tr. at 165-66.

<sup>11</sup> The Individual was 51 years old at the date of the hearing. Ex. 10 at 2.

diagnosis of the Individual as suffering from “a mental condition” characterized by the Individual’s “reliance on alcohol and vulnerability to heavy drinking.” Ex. 8 at 7.

Excessive use of alcohol raises a security concern due to the heightened risk that an individual’s judgment and reliability may be impaired to the point that he will fail to safeguard classified matter or special nuclear material. *See Personnel Security Hearing*, Case No. TSO-0733 (July 13, 2009) (Criterion J case involving alcohol misuse). Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness. “Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information,” issued on December 29, 2005, by the Assistant to the President for National Security Affairs, The White House (Adjudicative Guidelines), at Guideline G. Given the Individual’s admitted treatment at a treatment center for an alcohol problem in 1984, the LSO had more than sufficient grounds to invoke Criterion J. Further, the diagnosis by the DOE Psychologist provides grounds for the LSO to invoke Criterion H.

The Individual believes his efforts in treatment as well as the limited nature of his resumed alcohol consumption in 2005 have mitigated the concerns raised by the Criteria H and J derogatory information. I agree.

All of the experts in this case conclude that the Individual does not have a currently diagnosable alcohol disorder. However, the DOE Psychologist believes that the Individual has a “mental condition” that makes him vulnerable to future bouts of excessive alcohol use should he be subject to psychological trauma and that the Individual’s current period of abstinence of almost four months is not sufficient to demonstrate rehabilitation or reform. The Psychiatrist offers a differing opinion and concludes that the Individual has been sufficiently rehabilitated.

After reviewing the evidence and the testimony, I find that the Psychiatrist’s testimony is more convincing. The Psychiatrist has had the benefit of a more extensive period of time to evaluate the Individual. In making his analysis, he has specifically pointed to a number of favorable factors which are supported by the record. The DOE Psychologist’s Report concluded that the Individual would be susceptible to uncontrolled alcohol use if subject to psychological trauma. However, in his testimony, the DOE Psychologist, when given the opportunity to listen to all of the testimony, concluded that the Individual’s most recent use of alcohol was not triggered by stress. Indeed, there is little evidence that the trauma that Individual experienced in being diagnosed with cancer led to his recent controlled alcohol consumption. There is substantial evidence that the Individual’s recent use of alcohol was an attempt to mitigate the damaging side effects of radiation treatment. Significantly, there is no evidence that his consumption became problematic at anytime during his four-year resumption of alcohol use.

I am also persuaded by the testimony of the Individual and his wife. The Individual has now internalized the message that, given his prior history with alcohol, any alcohol consumption is dangerous. His faithful participation in AA and the EAP program supports this conclusion. The experts in this case, even the DOE Psychologist, all agree that the risk of the Individual’s

relapsing is low. Given the evidence before me, I find that the Individual has resolved the security concerns raised by the Criteria H and J derogatory information.

## **VI. CONCLUSION**

As explained above, I find that the security concerns under Criteria H and J related to the Individual's history of alcohol misuse and the DOE Psychologist's diagnosis have been resolved. I conclude that restoring the Individual's access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Consequently, the Individual's access authorization should be restored. The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Richard A. Cronin, Jr.  
Hearing Officer  
Office of Hearings and Appeals

Date: November 4, 2009