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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: May 19, 2022) Case No.: PSH-22-0086
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Issued: August 25, 2022

Administrative Judge Decision

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXX XXXXX (hereinafter referred to as “the Individual”) to hold an access authorization under the United States Department of Energy’s (DOE) regulations, as set forth at 10 C.F.R. Part 710, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”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’s access authorization should not be restored.

I. Background

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. In December 2020, the Individual self-reported to the DOE that, during the previous 12 months, he deposited large sums of money into various bank accounts on behalf of a woman he met on a dating site. Exhibit (Ex.) 6 at 57; Ex. 8 at 11. The Individual explained that, in December 2020, the banks associated with the accounts froze or closed the accounts for “an investigation.” Ex. 6 at 58-59.

In March 2021, the Local Security Office (LSO) issued a Letter of Interrogatory (LOI) to the Individual, which sought information about the Individual's communication with foreign nationals, monetary transactions, and travel to foreign countries. Ex. 7. The Individual subsequently underwent a psychological evaluation by a DOE consultant psychiatrist (DOE Psychiatrist) in September 2021. Ex. 8. Based on the evaluation, the DOE Psychiatrist determined that the Individual met the Diagnostic and Statistical Manual of Mental Disorders, 5th edition (DSM-5), criteria for a diagnosis of Adjustment Disorder, with Mixed Anxiety and Depressed Mood (Adjustment Disorder). *Id.* at 13.

Due to unresolved security concerns related to the Individual's psychological condition, the LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1. In the Summary of

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.

Security Concerns that accompanied the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline I (Psychological Conditions) of the Adjudicative Guidelines. *Id.*

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations to request an administrative review hearing. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted ten numbered exhibits (Ex. 1-10) into the record and presented the testimony of the DOE Psychiatrist. The Individual introduced four exhibits into the record, which I have labeled Exhibits A-D (Ex. A-D), and presented the testimony of four witnesses, including himself. The hearing transcript in the case will be cited as “Tr.” followed by the relevant page number.

II. Regulatory Standard

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 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.

III. Notification Letter and Associated Security Concerns

As previously stated, the Summary of Security Concerns included a statement of derogatory information that raised security concerns under Guideline I of the Adjudicative Guidelines. Guideline I refers to certain emotional, mental, and personality conditions that can impair a person’s judgment, reliability, or trustworthiness. Adjudicative Guidelines at ¶ 27. Conditions that could raise a security concern under Guideline I include “[b]ehavior that casts doubt on an individual’s judgment, stability, reliability, or trustworthiness,” including, but not limited to,

irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors. *Id.* at ¶ 28(a). Additionally, “an opinion by a duly qualified mental health professional that an individual has a condition that may impair judgment, stability, reliability, or trustworthiness” may also raise a security concern under this guideline. *Id.* at ¶ 28 (a), (b). As support for citing Guideline I, the LSO cited the DOE Psychiatrist’s Evaluation Report (Report), which concluded that the Individual met the DSM-5 criteria for Adjustment Disorder with Mixed Anxiety and Depressed Mood. Ex. 1 at 18. The LSO additionally cited the DOE Psychiatrist’s opinion that the Individual’s Adjustment Disorder is an emotional, mental, or personality condition that can impair his judgment, stability, reliability, and trustworthiness. *Id.*

IV. Findings of Fact

In September 2021, the Individual underwent an evaluation with the DOE Psychiatrist. Ex. 8. Following the evaluation, the DOE Psychiatrist issued a Report, detailing his findings. *Id.*² According to the Report, in approximately 2018, “loneliness in the [Individual’s] marriage” prompted him to begin visiting massage parlors, where he paid for “sexual massages.” *Id.* at 6. The Report indicated the Individual initially purchased these massages once per month, but he increased the frequency of his visits to “about five times per month.” *Id.* The Report also stated that the Individual would pay for these massages by withdrawing cash from an ATM machine, and in January 2019, the Individual’s wife (Wife) discovered the “money-trail” and confronted him about the massage payments. *Id.*

The Individual told the DOE Psychiatrist that, in response to his Wife discovering his massage activity, he began treatment in a church group counseling program which specialized in “addiction to lust.” *Id.* at 7, 10. He participated in this program for approximately one year, beginning in February 2019. *Id.* at 7. He also reported that in February 2019, he began individual counseling with a church counselor, and in May 2020, he began individual counseling with a secular counselor, during which he discussed suffering from “PTSD [Post Traumatic Stress Disorder], suicidal thoughts, and panic attacks.”³ *Id.* at 7, 9-10. Additionally, beginning in February 2019, the Individual and his Wife sought marriage counseling through their church, but after about seven sessions, the marriage counselor recommended that the couple separate. *Id.* at 7. The Individual told the DOE Psychiatrist that he moved out of the family home in approximately June 2019, and in approximately August 2019, the Wife filed for divorce, which was finalized in November 2020. *Id.* at 7, 10.

The Report stated that in March 2020, the Individual visited a dating website, where he encountered a woman (Woman). *Id.* at 7. The Woman claimed she was originally born outside of the United States but now resided in a state different from that of the Individual. *Id.* The Individual told the DOE Psychiatrist that within two weeks of participating on the website, the Woman initiated contact with him. *Id.* The Report noted that the Individual and the Woman began

² All references to the Report, found at Ex. 8, throughout this Decision use the page numbers found in red at the lower right corner of the document.

³ The Report is silent regarding the duration of the individual counseling sessions. *See* Ex. 8.

communicating every day in the morning and evening and “began texting messages expressing their mutual companionship and love.” *Id.* However, over the course of their one-year relationship, the two never met personally and only spoke on the phone a total of four times. *Id.* at 8.

According to the Report, within a month of their first communication, the Woman began asking for money. *Id.* at 8. The Report indicates that between March 2020 and May 2020, the Individual sent the Woman multiple gift cards and cashier’s checks, in amounts ranging from \$100 to \$10,000, and the Individual sent the Woman cash, in amounts ranging from \$300 to \$1,200. *Id.* at 7-9. The DOE Psychiatrist noted that “at one point” in the relationship, the Individual sent the Woman several cashier’s checks, totaling \$25,000, for a five-karat engagement ring to be made for her. *Id.* at 8.

The Individual stated he received \$28,443.30 from the Woman, by wire transfer, reportedly to be used for “machines and material for [the Woman’s] fashion business,” and a check in the amount of \$10,000, reportedly to be used for “machinery.” *Id.* at 8. The Individual also received two checks, in the amount of \$250,000, that the Woman requested that the Individual “hold for her.” *Id.* The Individual also reported that he opened accounts at four different banks and opened a Bitcoin account, in his name, at the Woman’s request. *Id.*

The Report noted that, in May 2020, the Individual confided in his manager at work that “several stressors were combining to make him feel bad,” and he was “feeling suicidal.” *Id.* at 8. The Report indicated that the Individual’s manager referred him to the Employee Assistance Program (EAP). *Id.* The Individual reported that during one of these sessions, his EAP provider (EAP Provider) warned him that the Woman might not be “a real person,” someone “might be assuming that identity online to manipulate or take advantage of him,” and he should “seek additional counseling.” *Id.* at 9.

Then, in August 2020, the Individual received over \$110,000 in an account he opened for the Woman. *Id.* at 9. According to the Report, an account at a separate bank was then closed, for an investigation, but he “did not want to believe what was happening, so he kept doing what [the Woman] asked of him.” *Id.* In November 2020, the Individual received a wire transfer of \$38,567 into his account at a third bank, from which the Individual sent cashier’s checks to the Woman, “just as she asked.” *Id.* at 10. Shortly after, in December 2020, the third bank froze all of the Individual’s accounts and notified him that all of the accounts would be “closed out” because they were “under investigation.” *Id.*

The Individual told the DOE Psychiatrist he thought he was in love with the Woman, but he began to feel that the Woman “did not really love him as she professed.” *Id.* The Report stated that, after the third bank froze his accounts in December 2020, the Individual stopped communicating with the Woman. *Id.* at 11. However, according to the Report, in February 2021, an attorney sent the Individual a “deed of transfer for \$13,432,800.00,” describing the Individual as the Woman’s “husband-to-be.” *Id.* According to the Individual, he had his final contact with the Woman, by email, in March 2021.⁴ *Id.*

⁴ The Report is silent as to the substance of this communication. See Ex. 8.

The DOE Psychiatrist concluded that Individual met the DSM-5 criteria for Adjustment Disorder, which is “an emotional, mental, or personality condition... that can impair [the Individual’s] judgment, stability, reliability or trustworthiness. *Id.* at 13. The DOE Psychiatrist noted that his diagnosis was consistent with that of the Individual’s personal physician. *Id.* The DOE Psychiatrist explained that the “ongoing stressor” underlying the Adjustment Disorder was the “termination of a romantic relationship” beginning in January 2019, when his Wife confronted him about the massages. *Id.* He explained that the Individual described symptoms of anxiety which included shaking and other physical symptoms, which precipitated the Individual seeking emergency medical treatment. *Id.* The DOE Psychiatrist stated that the Individual’s “Adjustment Disorder symptoms...likely put him at risk for his infatuation with his new online girlfriend.” *Id.* He ultimately opined that the Individual’s “prognosis for his disorder [was] poor” given that the “stressors that precipitated this severe adjustment disorder (i.e., a divorce, a troubled romantic relationship, financial stressors) are somewhat common and likely to recur.” *Id.* The Psychiatrist expressed “some concern [the Woman] might be able to persuade [the Individual] to resume the relationship” if she were to contact him again. *Id.*

V. Hearing Testimony

At the hearing, four witnesses testified on the Individual’s behalf: his manager, his son, a psychiatrist, and the Individual himself.

The Individual’s manager (Manager) testified that he has known the Individual since 2017 and has served as his manager since 2019. Tr. at 20-21. He stated that he finds the Individual to be an open and reliable person, and the Individual would talk to him about issues in his personal life, like his divorce from his wife and “challenges with his finances.” *Id.* at 21-22, 28-29, 35. He stated that, in March or April of 2020, the Individual told him he was talking to a woman he met online. *Id.* at 23. The Manager stated that, around September 2020, an employee approached him and expressed concerns about the Individual’s relationship with the Woman. *Id.* at 24. The Manager noted that, in December 2020, after he learned the Individual’s bank accounts were frozen, he and the Individual “reached out” to “counterintelligence to make them aware” of the issue. *Id.* The Manager stated that, about a week later, he and another manager met with the Individual and told him his security clearance had been suspended. *Id.* at 25. He testified that the Individual told him he “contemplated suicide the previous weekend,” so the Manager requested that the Individual be evaluated by the on-site medical department. *Id.* at 25-26. The Manager stated that the evaluating EAP Provider told him he “wasn’t concerned” about the Individual and the Individual “wasn’t a harm to himself.” *Id.* at 27.

The Manager also testified that he believed that the Individual has “responded very seriously” to his issues and “wants to get better.” *Id.* at 28. He stated the Individual continues to meet with the EAP Provider, whom he believes has been “a very effective person” in the Individual’s growth. *Id.* at 28. Lastly, the Manager stated the Individual has handled more recent personal challenges, such as his health and the death of a parent, very well, and has grown throughout the process. *Id.* at 29.

The Individual's son (Son) testified that over the previous three or four years, he noticed "emotional changes" and increased stress in his father, stemming from his parents' separation and subsequent divorce in November 2020. *Id.* at 42. The Son noted that the Individual is a good father and is "always" reliable and honest with him; however, the Son stated that, in December 2020, he "found out something had gone on and [the Individual] had not told [him]," specifically "the [Woman] thing." *Id.* at 44. The Son explained that he learned about the Individual's relationship with the Woman because the joint bank account he shared with the Individual was frozen, and he subsequently called the Individual who told him "what was going on." *Id.* at 45.

The Son stated that he did not believe the Individual showed good judgment in his interactions with the Woman, but that he felt that the Individual was trying to put himself in a "position to try to meet someone" after the breakup of a long marriage. *Id.* at 46. The Son testified that he does not believe the situation with the Woman could recur because he does not believe that the Individual "will ever be in a situation where his mental state will be that affected negatively" again. *Id.* at 48.

The Individual testified regarding the chain of events prior to his meeting the Woman, which was consistent with the description he provided during his evaluation with the DOE Psychiatrist. *See Id.* at 90-98. The Individual stated that, although he understood that paying for a massage of a sexual nature was an illegal activity, he last received an "erotic massage" in March 2021. *Id.* at 134, 162.⁵ He testified that he now satisfies his loneliness and need for "companionship...[and] physical touch" through spending time outdoors and interacting with his family. *Id.* at 162-163. He noted that he is not using any dating sites and is not engaged in any romantic relationships. *Id.* at 152-153.

In recalling the start of his relationship with the Woman, the Individual stated that in March 2020, he wanted to "find somebody that's mature" and start a "romantic relationship" with someone. *Id.* at 103-104. As such, he testified that he visited a dating site for people over 50 and created a profile. *Id.* at 103. He stated that he then met the Woman, who indicated that she was 43 years old.⁶ *Id.* at 103, 165. The Individual stated that a week after they met virtually, he and the Woman had "a few conversations" on the website, then they exchanged personal contact information. *Id.* at 103, 165. He explained that he "became smitten" with the Woman, he stated he thought, "this girl really likes me 'cause she's giving me attention, attention that I didn't have through 70 percent of my marriage" and "I was buying into it hook, line, and sinker." *Id.* at 143, 166. The Individual stated that he never saw the Woman in-person at any time during their interactions, but he did not find this to be odd because the Woman's "beauty and her attention...was enough to satisfy" him. *Id.* at 167.

⁵ The Individual acknowledged that he paid for this massage, even though he knew his security clearance was in jeopardy. Tr. at 134-135.

⁶ When asked if it concerned him that the Woman was under 50 on an over-50 dating site, the Individual stated that he "didn't give it a second thought because the factors that [he] was looking for was [sic] a personality, a smile, cute body, a cute face." Tr. at 166.

The Individual explained that the Woman told him she was a dress designer, who was trying to start her own business, and [he] was helping her start this business by creating [bank] accounts.” Tr. at 106, 167-168. He stated that the Woman “had him” open a bank account, initially with one bank, and later he opened accounts at three additional banks. *Id.* at 106. He explained that he then received money from different individuals and by different means: check, money order, cashier’s check, and wire transfer. *Id.* at 106-107. The Individual noted that the money never came directly from the Woman, but he associated the transfers of money with the Woman because she would tell him to “be looking” for the money or would tell him “you’re going to be receiving a check for such and such amount.” *Id.* at 107-108. The Individual stated, “From there I was to write a cashier’s check to whatever company was selling the sewing machine, or selling the material for the dresses, or what – whatever else was going on with the dressmaking.” *Id.* at 109. The Individual explained that he told people at work about his relationship with the Woman; sharing pictures of a dress she allegedly designed and explaining that she could win “approximately eight million” dollars if she won a fashion contest. *Id.* at 124.

The Individual then explained that in August 2020, he received a notice from one of the banks indicating an account he opened for the Woman was frozen due to a fraudulent wire transfer. *Id.* at 109-110. He stated that when he confronted the Woman, she told him, “there might have been a mixup, but everything’s going to be fine. It will be fine. Just trust me.” *Id.* at 110. The Individual explained that because he “was smitten,” he trusted the Woman. *Id.* The Individual testified that he continued with the monetary transactions on the Woman’s behalf, providing the Woman with the routing and account numbers for one of his personal bank accounts. Tr. at 111, 136. However, the Individual explained that, in December 2020, another bank account he opened on the Woman’s behalf was frozen “for suspicious reasons.” *Id.* at 111. The Individual stated that, at this time, the Son’s account was impacted, and he met his son to explain “what had transpired.” *Id.* at 112. The Individual testified that he “lost [the Son’s] trust.” *Id.*

The Individual testified that, as a result of his interactions with the Woman, he lost all of the money in this personal account and had to start over financially. *Id.* at 137-138. He stated that once the account he held jointly with his son was frozen, he no longer felt like his transactions with the Woman were “a legitimate operation,” and he felt ashamed. *Id.* at 112-113. The Individual testified that, in December 2020, he informed his employer of his activities with the Woman, had feelings of suicide, and began attending counseling sessions with the EAP Provider. *Id.* at 120, 125. He stated that he met with the EAP Provider every four to six weeks and last met with him two weeks prior to the hearing. *Id.* The Individual explained that the EAP Provider expressed concern that the Woman was not “real,” and was “probably a guy in the basement.” *Id.* Accordingly, the Individual testified that, starting in December 2020, he told himself “she’s not real,” changed his phone numbers, blocked emails from the Woman, and did not contact her again. *Id.* at 125. He stated that in January 2021, he started seeing another counselor every two to four weeks, and last saw that counselor about two weeks before the hearing. *Id.* at 121.

The Individual stated that in March 2021, he received an emailed copy of a deed,⁷ from someone posing as an attorney, and two or three other emails from the Woman. *Id.* at 125-126. The Individual testified that he did not respond to the email containing the copy of the deed or to the emails from the Woman. *Id.* at 126. He stated that he also received a phone call from an “apparent attorney of hers” requesting \$3,500, but he disconnected the call. *Id.* at 126-127. The Individual explained that he blocked all the Woman’s emails from his email account, but he noted that one of his EAP Providers informed him that “once you’re on a list of being able to be scammed, you are a hot button for anybody and everybody to try to scam you.” *Id.* at 138, 173. The Individual stated that he has received “hundreds” of phone calls and texts, so he changed his telephone number and does not own a personal phone anymore. *Id.*

The Individual stated that he feels ashamed about the situation with the Woman and “can’t blame nobody [sic] but myself.” *Id.* at 131. He stated he will continue to see the EAP Provider as well as his individual counselor. *Id.* He stated he learned a lot about himself through his experience with the Woman and now has more confidence and speaks out more. *Id.* at 130.

The Individual procured a psychiatrist (Individual’s Psychiatrist) to evaluate him prior to the hearing. *Id.* at 190. The Individual’s Psychiatrist testified regarding the DOE Psychiatrist’s diagnosis, stating that Adjustment Disorder “is an odd kind of diagnosis” that health providers “can only make...in a person we think doesn’t have anything else wrong.” *Id.* at 179. He stated: “Adjustment Disorder is the diagnosis which I’m willing to say, ‘Well, I don’t know,’ because nobody knows what this means except that sometimes we’re forced to make a diagnosis when a patient doesn’t qualify for a diagnosis.” *Id.* at 184. The Individual’s Psychiatrist noted that he felt that the DOE Psychiatrist did “not document symptoms of enough anxiety or depression to make me even clear that [the Individual] had” Adjustment Disorder. *Id.* at 180. However, he noted that “if [the Individual] has Adjustment Disorder,” research shows that “75 percent of them don’t have any relapse,” and in the Individual’s situation, he “worr[ies] more that [the Individual is] going to have a hard time trusting anybody in a relationship than that he’ll be followed again by some scam artist like this [Woman].” *Id.* at 186

The Individual’s Psychiatrist added that the Individual exercised “catastrophically bad judgment or...profound stupidity in this business with” the Woman, and he felt that the Individual was “an unsophisticated guy who was lonely and [the Woman] fooled him.” *Id.* at 185, 186. He stated that the Individual “was stupid [and his] judgment was impaired,” but not due to a DSM diagnosis. *Id.* at 186-187. He stated that he disagreed with the DOE Psychiatrist’s opinion that the Individual’s prognosis is poor because “the definition of Adjustment Disorder is that the risk of recurrence is low.” *Id.* at 187. The Individual’s Psychiatrist also noted that since the events with the Woman, the Individual has managed through the stress of the illness and death of his father without showing diminished judgment. *Id.* at 185.

⁷The deed referenced at this point in the testimony was the Deed of Transfer for over \$13 million dollars as described in the Report. *See* Ex. 8.

The DOE Psychiatrist began his testimony by stating he did not hear anything during the hearing that would cause him to change his opinion on the Individual's diagnosis or prognosis. *Id.* at 191-192. He explained that in order to meet the criteria for Adjustment Disorder, one has "to have marked distress causing significant impairment." *Id.* at 192. The DOE Psychiatrist opined that the Individual had "marked distress" because he experienced anxiety that was "severe enough to bring him to the [emergency room] a couple of times. He had shaking. He required therapy with multiple therapists, and he sought medications." *Id.* He explained that he felt that the Individual had "significant impairment" because he "was depressed enough that he became suicidal" and became involved in a relationship wherein "he made these significantly poor series [sic] and prolonged numbers of financial transactions with [the Woman]." *Id.* The DOE Psychiatrist noted that problems in a romantic relationship and a divorce is a "textbook example of a stress that causes an adjustment disorder." *Id.* at 193.

Regarding the prognosis, the DOE Psychiatrist opined that, although the Adjustment Disorder is "currently under control," the Individual is "at risk to suffer similar problems in the future" due to the challenges that can arise, especially in romantic relationships. *Id.* at 193. He noted that if the Individual "is free of a significant stress, he might continue to do fine"; however, "if he gets stressed, like in romantic troubles, it's quite likely to affect him into making unusually bad judgments." *Id.* at 194. The DOE Psychiatrist further opined that the Individual's stated replacements for dealing with his "romantic needs" – spending time with family and in nature – were not sustainable due to the differences between familial and romantic relationships and the intensity that often accompanies romance. *Id.* at 208.

VI. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the Individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. The specific findings that I make in support of this Decision are discussed below.

Pursuant to Guideline I, a condition that could raise a security concern and disqualify a person from holding a security clearance is "behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors." Adjudicative Guidelines at ¶ 28(a). Additionally, "an opinion by a duly qualified mental health profession that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness" may preclude an individual from holding a security clearance. *Id.* at ¶ 28(b).

There are conditions that could mitigate security concerns under Guideline I, which include:

- (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;
- (c) a recent opinion by a duly qualified mental health professional that an individual's previous condition is under control and has a low probability of recurrence or exacerbation;
- (d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer show indications of emotional instability;
- (e) there is no indication of a current problem.

Id. at ¶ 29.

In this case, the Individual has been diagnosed with a condition – Adjustment Disorder – that impairs his judgment, reliability, or trustworthiness. He was given this diagnosis not only by the DOE Psychiatrist, but also by his personal physician. *Id.* at ¶ 28(b). Although there appears to be “no indication of a current problem,” *see id.* at ¶ 29(e), the DOE Psychiatrist determined that the Individual's prognosis is poor, and he is at risk for encountering similar problems in the future, especially regarding romantic relationships. Ex. 8 at 13; Tr. at 193. Therefore, the Individual does not yet have “a low probability of recurrence” regarding his Adjustment Disorder, nor does he have “a favorable prognosis by a duly qualified mental health professional.” *See id.* at ¶ 29(b), (c). Although I note that the Individual's Psychiatrist disagreed with the DOE Psychiatrist's diagnosis, I do not find the testimony of the Individual's Psychiatrist to be entirely persuasive. To begin, the Individual's Psychiatrist appeared to struggle with providing an explanation of Adjustment Disorder, a recognized DSM-5 diagnosis. Tr. at 184. Furthermore, he testified that the DOE Psychiatrist did not provide “enough” symptoms of anxiety or depression to justify the diagnosis when it is undisputed that the Individual ultimately sought medical aid for anxiety and reached out to the Manager for help due to suicidal ideations. *Id.* at 180. Despite the Individual's Psychiatrist's disagreement with the Adjustment Disorder diagnosis, he was quite clear that the Individual's judgment, at least as it pertained to the Woman, was severely impaired. *See id.* at ¶ 28(a); Tr. at 185-186.

Although, the Individual has pursued counseling, removed the Woman from his life, and appears to be managing life stressors well, he has not yet shown that, after leaving a long-term marriage, he can successfully engage in a romantic relationship and maintain his judgment, reliability, and trustworthiness. As such, I cannot determine that the Adjustment Disorder was temporary, “the situation has been resolved, and the [I]ndividual no longer shows indications of emotional instability.” *See id.* at ¶ 29(d).

Even putting aside the opinions of the psychiatrists in this case, my Decision is only reinforced by the “nature, extent, and seriousness of the conduct” at issue. 10 C.F.R. § 710.7(c). The Individual’s conduct during the period at issue in this case is particularly egregious, demonstrating gross lack of judgment, stability, reliability, or trustworthiness. *See id.* at ¶ 28(a). The Individual participated in illegal activity through the procurement of massages of a sexual nature over the course of at least a year, and as recently as March 2021. Tr. at 134-135. He then engaged in an online relationship, for approximately ten months, with an individual he never physically saw, and as a result of this relationship, the Individual was induced to participate in the funneling of hundreds of thousands of dollars through bank accounts he opened on this stranger’s behalf. Ex. 8 at 7-10; Tr. at 106-107, 167-168. It was not until two banks intervened, and the Son’s finances were impacted, that the Individual concluded that there was a problem with his relationship with the Woman and disclosed the situation to the Son. Tr. at 109-112. At that point, the Individual became suicidal. Ex. 8 at 8; Tr. at 120, 125. The Individual’s behavior in this case demonstrated overwhelmingly poor judgment, and his testimony at the hearing did not give me great confidence that he recognizes the seriousness of his behavior. *See id.* As such, I remain concerned about the likelihood that such behavior may recur.

For the forgoing reasons, I cannot conclude that the Individual has sufficiently mitigated the Guideline I security concerns.

VII. Conclusion

After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I have found that the Individual has not brought forth sufficient evidence to resolve the security concerns associated with Guideline I. As such, I cannot find that the Individual has adequately established that restoring his security clearance will not endanger the common defense and security and that doing so is clearly consistent with the national interest. Accordingly, I find that the Individual’s access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth in 10 C.F.R. § 710.28.

Katie Quintana
Administrative Judge
Office of Hearings and Appeals