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**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)	
)	
Filing Date: August 21, 2024)	Case No.: PSH-24-0185
)	
_____)	

Issued: November 19, 2020

Administrative Judge Decision

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (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 be granted.

I. Background and Findings of Fact

The Individual is a prospective employee of a DOE contractor for a position that requires him to hold a security clearance. In May 2022, the Individual completed a Questionnaire for National Security Positions (QNSP), in which he reported that:

1. In December 2018, he downloaded a pirated video game;
2. From January 2019 through September 2021, he downloaded pirated textbooks “to alleviate textbook costs”;

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.

3. From approximately December 2017 to December 2019, he “infrequent[ly], max eight times[,]” used “THC (Such as marijuana, weed, pot, hashish, etc.)”;²
4. From approximately October 2018 through December 2019, he served as a “middle man . . . a few times” between a drug dealer and a friend as he was “their mutual contact”;
5. From July to August 2014, and from June to August 2015, he visited family (a grandmother, uncle, and cousins) and friends in a region (Region A) of a foreign country (Country A);³
6. In November 2017 (estimated)⁴ and in June 2019, he visited Canada for tourism;
7. His father was born in and is a citizen of Country A;
8. He works in a family-run restaurant that specializes in food from Country A; and
9. He lives with his parents.

Exhibit (Ex.) 4 at 30, 40, 48, 51–55, 59–60, 68–69, 73–74.⁵

The Individual subsequently underwent an Enhanced Subject Interview (ESI) in mid-2022, in which he disclosed that his parents and various foreign relatives residing in Region A of Country A were aware that he was undergoing a background investigation for a security clearance. *Id.* at 84–85. He also reported that he had forgotten to list a 2017 trip to Canada. *Id.* at 86. The Individual disclosed that he had engaged in the underage consumption of alcohol. *Id.* Regarding the pirated video game, the Individual explained that he downloaded a game, despite owning a physical copy for his game console, as he wanted to play it on his laptop. *Id.* at 87. He noted that he eventually deleted the game from his laptop. *Id.* As to the pirated textbooks, the Individual stated that despite having the financial means to purchase college textbooks, he downloaded approximately six to seven textbooks each semester from a foreign website, which he believed engaged in “data mining.” *Id.* The Individual noted that he learned about the website from a friend, and he subsequently shared the website with other friends. *Id.*

In late 2022, the Individual responded to a Letter of Interrogatory (LOI). In response to a question asking what cities he visited in Country A, the Individual disclosed that he traveled to both Region

² The Individual elaborated, reporting that he purchased “an edible” and “[a]te them infrequently.” Ex. 4 at 69.

³ The QNSP asks an applicant to provide information about the “country” that was visited. *See* Ex. 4 at 60. The Individual listed a specific region of that country. *Id.*

⁴ At the hearing, the Individual clarified that this particular trip actually occurred in November 2016. Transcript of Hearing, OHA Case No. PSH-24-0185 (Tr.) at 37.

⁵ The exhibits submitted by the DOE are contained within one PDF file. The page numbers used in the Decision refer to the page of the PDF, not any internal pagination on the documents themselves.

A and another region (Region B). Ex. 5 at 108; Ex. 6 at 111. He also reported that he could not remember where he downloaded the pirated video game and noted that “[i]t’s on my Mac[B]ook which is dead because of water damage.” Ex. 6 at 112.

As part of the security clearance investigation process, an Office of Personnel Management investigator interviewed a number of people (sources) who knew the Individual. One source reported that the Individual told him that he and his brother owned a rental property together, and the source stated that he “would possibly identify this as self-employment.” Ex. 4 at 99. Another source reported that “on the rare occasion[,]” the Individual would “hang out” with the source and “would partake in marijuana use [and] would consume the marijuana in whatever form it was being offered, whether it was smoking or edibles.”⁶ *Id.* at 97. The source also stated that he “believe[d] that [the Individual] would potentially participate in illegal drug use in the future from [the s]ource’s overall experiences with [the Individual] and knowledge of [the Individual’s] character.” *Id.*

Due to unresolved security concerns, 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. In the Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline E (Personal Conduct), Guideline B (Foreign Influence), Guideline M (Use of Information Technology), and Guideline J (Criminal Conduct) of the Adjudicative Guidelines. Ex. 2.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations to request an administrative review hearing. *Id.* 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 eight numbered exhibits (Ex. 1–8) into the record. The Individual submitted sixteen exhibits (Ex. A–P)⁷ into the record and presented his own testimony.

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

⁶ The source did not provide a timeline detailing when he observed the Individual engage in illegal drug use. *See* Ex. 4 at 97. The source also noted that he maintained “sporadic” contact with the Individual during the fall of 2019 as the source was abroad. *Id.* at 96. While they maintained “regular contact” beginning in the spring of 2020, during the fall of 2020, they only maintained sporadic contact through text message, which “has been consistent through present.” *Id.* at 96.

⁷ The Individual’s exhibits included: (A) a Statement of Intent to refrain from illegal drug use, (B) a Statement of Intent to refrain from alcohol abuse, (C) a negative drug test dated August 2024 using a hair sample, (D) a negative drug test dated August 2024 using a urine sample, (E) a copy of the Individual’s passport issued by the government of the United States, (F) a copy of the Individual’s voter registration card, (G) a bank statement, (H) a statement from an investment account, (I) a statement from a second investment account, (J) a reference letter from family friends, (K) a second reference letter from a friend, (L) a reference letter from a sitting member of the United States’ Congress, (M) two photographs of the physical copy of the video game, (N) the Individual’s resume, (O) a photograph of the Individual’s bachelor’s degree, and (P) a Distinguished Scholar Award. Ex. A–P.

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. *Id.* § 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 mentioned, the Notification Letter included the SSC, which sets forth the derogatory information that raised concerns about the Individual's eligibility for access authorization. The SSC specifically cites Guideline E, Guideline B, Guideline M, and Guideline J of the Adjudicative Guidelines. Ex. 2.

Guideline E addresses conduct involving questionable judgment, lack of candor, dishonesty, or an unwillingness to comply with rules and regulations. Adjudicative Guidelines at ¶ 15. Such conduct "can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes." *Id.*

In raising the security concerns pursuant to Guideline E, the LSO cited the following as support:

1. Downloading pirated textbooks from a foreign website which the Individual believed was engaging in data mining despite having the money to purchase them;
2. Downloading a pirated video game;
3. Using THC prior to marijuana becoming legal in his state;
4. Purchasing THC from a drug dealer and acting as a "middleman" for the drug dealer;
5. Consuming alcohol underage;

6. Failing to disclose that he smoked marijuana;⁸
7. Failing to disclose that he traveled to Region B of Country A on the QNSP;⁹
8. Failing to disclose on the QNSP that he had traveled to Canada in 2017;
9. Stating, during the ESI, that he deleted the pirated video, but later reporting, on the LOI, that the video game was located on his inaccessible, damaged laptop;
10. Failing to list a rental property as self-employment on the QNSP.¹⁰

Ex. 2 at 4–6.

Guideline B relates to security risks arising from foreign contacts and interests.

Foreign contacts and interests . . . are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest.

Adjudicative Guidelines at ¶ 6.

In raising the Guideline B, the LSO cited the following as security concerns:

1. Downloading pirated textbooks from a website, which the Individual believed a foreign country used for data mining;
2. Having daily contact, since birth, with his father, a citizen of Country A;

⁸ Allegations (1)–(6) are not properly raised pursuant to Guideline E. The LSO cites these allegations as a pattern of dishonesty or rule violations using the whole person concept. Adjudicative Guidelines at ¶ 16(d)(3). However, the Adjudicative Guidelines state that security concerns pursuant to this paragraph must be based on “information that is not explicitly covered under any other guideline . . .” *Id.* at ¶ 16(d). Allegations (1)–(6) are covered in Guidelines M and J, which the LSO also cited in the SSC. As such, I will not analyze these allegations under Guideline E herein.

⁹ As stated previously, the QNSP specifically asks for the disclosure of the *country* that was visited. Ex. 4 at 59. As such, the Individual was under no obligation to list Region B of Country A on the QNSP. Therefore, his omission of Region B does not constitute a security concern, and I will not analyze it herein.

¹⁰ During the hearing the Individual testified that he never owned a rental property with his brother. Tr. at 41. Even supposing he had, however, it is not intuitive or clear from the language of the QNSP that mere ownership of an investment property constitutes self-employment requiring disclosure. *See* Ex. 4 at 40 (requesting that applicants list “employment activities, including unemployment and self-employment,” but providing no indication of what constitutes self-employment). As such, I find that there is no security concern associated with his possible failure to disclose owning a rental property, and I will not analyze this allegation herein.

3. Residing with his father, who was aware that he was undergoing a background investigation for a security clearance;
4. Working for his father in a restaurant specializing in food from Country A;
5. Traveling to Regions A and B of Country A and visiting foreign relatives in Region A, some of whom are aware that he is undergoing the security clearance process;
6. Having ongoing contact with a cousin, who was born in Country A and resides in Region A, one to four times per year through text messaging.¹¹

Ex. 2 at 7.

Guideline M addresses the use of information technology. Adjudicative Guidelines at ¶ 39. “Failure to comply with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual's reliability and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information.” *Id.* In citing Guideline M, the LSO cited the downloading of the pirated video game and textbooks. Ex. 2 at 8.

Guideline J addresses criminal conduct. Adjudicative Guidelines at ¶ 30. Such conduct “creates doubt about a person’s judgment, reliability, and trustworthiness” as “[b]y its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” *Id.* In citing Guideline J, the LSO relied upon the Individual downloading the pirated video game and textbooks; his use, purchase, and distribution of marijuana; and his underage consumption of alcohol. Ex. 2 at 9.

IV. Hearing Testimony

At the hearing, the Individual testified on his own behalf. The Individual acknowledged that from approximately January 2019 through September 2021, he downloaded pirated textbooks each semester that he was in college using the school’s network. Tr. at 25, 51. He explained that he became aware of the website through a group of friends, and he chose to utilize it in order to save money despite being able to afford them. *Id.* at 26. The Individual testified that it was common in his college environment for students to obtain their textbooks via a website like the one he utilized. *Id.* at 75. He stated that he believed the website to be a foreign website based upon its domain name; however, he noted that he can only speculate as to its source. *Id.* at 27. He explained that he suspected that the website was mining data in exchange for the textbooks. *Id.* at 52. The Individual testified that he was immature at the time, and he now understands that his choice to download the

¹¹ I cannot find that having foreign national familial relations, working in a restaurant specializing in foreign cuisine and owned by a foreign national, or traveling to a foreign country are sufficient bases, in and of themselves, to raise a security concern pursuant to Guideline B. The SSC does not allege that the Individual’s contact with his familial relations “create[s] a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion.” Adjudicative Guidelines at ¶ 7(a). Without a clear explanation as to how the Individual’s mere connection to foreign national relations creates a security concern, I cannot find that that allegations (2)–(6) were properly raised by the LSO. As such, I will not analyze them herein.

pirated textbooks was a “severe” mistake, and he has no intention of engaging in such behavior in the future. *Id.* at 28, 75.

Regarding the pirated video game, the Individual explained that he downloaded it in December 2018 because he “wanted to relive some childhood memories, nostalgia.” *Id.* He testified that he already owned a copy of the game for his gaming console, but he downloaded it as “a path of least resistance” to play it on his laptop. *Id.* at 29; *see* Ex. M. Turning to the discrepancy about whether the game was deleted, the Individual explained the apparent inconsistent statement was due to his poor choice of words. *Id.* at 53–54. He stated that when he wrote “[i]t’s on my Mac[B]ook” on the LOI, he was intending to communicate that the MacBook was the source of loading the game to play it. *Id.* at 114; Ex. 8 at 116. The Individual clarified during the hearing that he did delete the game from his laptop, after which the laptop sustained water damage and became unusable. Tr. at 40. As such, he was unable to access the contents of the laptop to prove that the game was no longer on the computer. *Id.*

The Individual acknowledged that he used marijuana from approximately December 2017 through December 2019 as he originally reported on the QNSP. Tr. at 29; Ex. 4 at 68. He explained that he did not use it often, “just mostly after final exams and such, just to . . . calm [his] nerves after being on edge.” Tr. at 30. Despite the source that reported that the Individual “would consume marijuana in whatever form it was being offered,” the Individual maintained that he had never smoked marijuana. *Id.* at 58–59.

The Individual explained that he would obtain the edible marijuana through a “dealer.” *Id.* Eventually, three friends were interested in obtaining marijuana, and the Individual became a “middleman.” *Id.* at 30, 54. He explained, “I would go to the seller to collect the edible. I would just keep a small piece for myself as commission. Then I would go to the buyer, trade off the edible for the money, and I would just give the money back to the seller.” *Id.* The Individual testified that he acted as a middleman approximately six or seven times. *Id.* at 31. He further stated that he stopped using marijuana and acting as a middleman approximately in 2019.¹² *Id.* at 72.

Regarding his underage alcohol consumption, the Individual stated that he first tried alcohol when he was a young teenager, having a taste of his father’s beer from a kitchen utensil. *Id.* at 32. In college, the Individual testified that he would consume alcohol underage approximately once or twice every weekend. *Id.* at 33.

The Individual testified that he inadvertently omitted a 2017 college trip to Canada from his QNSP. *Id.* at 37. He explained that he had taken two trips to Canada in a relatively short period of time.¹³ *Id.* The Individual explained that he went to school “pretty close” to the Canadian border and given that he did not stay the night, the trip was not significant in his mind. *Id.* at 49–50. He explained that the second trip “just fell through the cracks.” *Id.* at 37. However, prior to being asked about the trip during the ESI, the Individual disclosed it to the investigator. *Id.* at 78.

¹² A letter of support from the Individual’s friend affirms that the Individual “has had no involvement with [marijuana] in the past five years.” Ex. K.

¹³ The Individual listed the first trip to Canada on his QNSP. Ex. 4 at 61. He additionally listed a later 2019 trip to Canada. *Id.* at 62.

V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses during 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. After due deliberation, I have determined that the Individual has mitigated all of the elements of the security concerns that were properly raised by the LSO under Guidelines B, E, J, and M of the Adjudicative Guidelines. Therefore, I find that the Individual's access authorization should be granted. The specific findings that I make in support of this decision are discussed below.

A. Guideline B

Conditions that may mitigate a Guideline B security concern include:

- a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;
- b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;
- c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation;
- d) the foreign contacts and activities are on U.S. Government business or are approved by the agency head or designee;
- e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and
- f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

Adjudicative Guidelines at ¶ 8.

The LSO alleges that the Individual was susceptible to foreign influence based upon his use of an allegedly foreign website to download pirated textbooks. At the outset, I note that there is no evidence in the record, beyond the Individual's stated belief, that this website was affiliated with a foreign government or entity. Additionally, there is no allegation or indication that the Individual made any foreign contacts through the use of the website or engaged in activity wherein he obtained any interest in the foreign country or government such that his allegiance could be divided. Finally, the Individual has not engaged with this website since September 2021 and openly and honestly disclosed his conduct on his QNSP. As such, I find that because the Individual's involvement in the allegedly foreign website did not result in any relationships with foreign persons and was so long ago, it is unlikely that the Individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States. *Id.* at ¶ 8(a).

B. Guideline M

Conditions that may mitigate security concerns under Guideline M include:

- a) so much time has elapsed since the behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- b) the misuse was minor and done solely in the interests of organizational efficiency and effectiveness;
- c) the conduct was unintentional or inadvertent and was followed by a prompt, good-faith effort to correct the situation and by notification to the appropriate personnel; and
- d) the misuse was due to improper or inadequate training or unclear instructions.

Adjudicative Guidelines at ¶ 41.

The Individual last engaged in downloading pirated material over three years prior to the hearing at a time when he was in a college environment where such behavior was commonplace among his peers. The Individual acknowledged that he approached the situation with immaturity and now understands that this behavior is not acceptable. The Individual was honest regarding his improper activity, and there is nothing in the record indicating that the Individual has engaged in improper use of information technology since leaving the college environment. As such, I find that so much time has elapsed since the Individual downloaded pirated material, and it occurred during a time of immaturity and susceptibility to group behavior that is unlikely to recur. Therefore, I find that these past actions do not cast doubt on the Individual's current reliability, trustworthiness, or good judgment. *Id.* at ¶ 41(a). Accordingly, I find that the Individual has mitigated the Guideline M security concerns.

C. Guideline J

Conditions that may mitigate security concerns under Guideline J include:

- a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- c) there is no reliable evidence to support that the individual committed the offense; and
- d) there is evidence of successful rehabilitation, including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32.

For the reasons discussed in my analysis under Guideline M, I find that the Individual has mitigated the Guideline J security concerns regarding the pirated material. *Id.* at ¶ 32(a). Similarly, regarding the Individual's purchase, use, and distribution of marijuana, the Individual last engaged in such behavior over five years prior to the hearing at a time in his youth when he was more susceptible to poor judgment. *See* 10 C.F.R. § 710.7(c) (noting that DOE officials involved in the access authorization decision making process shall consider, among other factors, an individual's age and maturity at the time of the conduct in question). The Individual has submitted a letter from a friend who affirmed that the Individual has not engaged in illegal drug activity in the past five years, and he additionally provided a Statement of Intent to refrain from illegal drug use in the future. I find that so much time has passed since the Individual engaged in illegal drug activity and it occurred under such circumstances that it is unlikely to recur. Therefore, I find that these past actions do not cast doubt on the Individual's current reliability, trustworthiness, or good judgment. *Id.* at ¶ 32(a). Regarding the Individual's underage alcohol use, the Individual is now over twenty-one years of age, and as such, this specific behavior cannot recur. *Id.*

The Individual has mitigated the Guideline J security concerns.

D. Guideline E

Conditions that may mitigate a Guideline E security concern include:

- a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

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

Adjudicative Guidelines at ¶ 17.

The LSO alleges that the Individual failed to disclose that he smoked marijuana during college, based upon information provided by a source. At the outset, I note that the Individual openly disclosed his edible marijuana purchase, use, and distribution on the QNSP and testified to it during the hearing. Given the Individual's openness and honesty regarding his past drug use, I have no reason to doubt his testimony that he never smoked marijuana. I can see no reason that the Individual would admit to purchasing, using, and distributing illegal marijuana edibles, but deny smoking it. As such, I cannot find that the Individual failed to provide full, frank, and truthful answers during the security clearance application process. *See* Adjudicative Guidelines at ¶ 15(b). Even accepting that the source's allegation raises a security concern, I find that this concern is mitigated pursuant to ¶ 17(f) based upon the source's admission that he rarely associated with the Individual. Without the ability to question this source, I cannot find his description of the Individual's drug use to be reliable. *Id.* at ¶ 17(f).

The LSO next alleges that the Individual failed to properly disclose a 2017 trip to Canada on the QNSP. The Individual acknowledged that he inadvertently omitted the day trip. Given that the Individual properly disclosed two other trips to Canada as well as other international travel, I do not find this omission to be deliberate. *See id.* at ¶ 16(a). Nevertheless, the Individual testified that

he recalled and disclosed the trip prior to being confronted with the missing information. *Id.* at ¶ 17(a). Furthermore, given the Individual's full disclosure of his other significant international travel, I find this offense to be so minor that it is unlikely to recur and does not cast doubt on the Individual's reliability, or good judgment. *Id.* at ¶ 17(c).

Lastly, the LSO alleges that the Individual provided conflicting accounts of whether the pirated video game still existed on his laptop. The Individual reported during the ESI that he had deleted the game from the laptop and later, in the LOI response wrote, "it's on my laptop which is dead because of water damage." Ex. 6 at 112. I have no reason to disbelieve the Individual explanation that the discrepancy was caused by his failure to be specific on the LOI response. Ultimately, he was consistent in stating that the game was no longer accessible on the laptop, and I find that this discrepancy was so minor that the behavior is unlikely to recur and does not cast doubt on the Individual's reliability or good judgment. *Id.* at ¶ 17(c).

The Individual had mitigated the Guideline E security concerns.

VI. 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 brought forth sufficient evidence to resolve the security concerns associated with Guidelines B, E, M, and J. Accordingly, I have determined that the Individual's access authorization should be granted. 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