

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

In the Matter of: Personnel Security Hearing	)	
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Filing Date: July 29, 2024	)	Case No.: PSH-24-0160
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Issued: January 8, 2025

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**Administrative Judge Decision**

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Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”<sup>1</sup> For the reasons set forth below, I conclude that the Individual’s security clearance should not be granted.

**I. BACKGROUND**

The Individual is employed by a DOE Contractor in a position that requires a security clearance. Following a panic attack at work that resulted in the Individual being taken to the hospital by first responders, the Individual was evaluated by a DOE Contractor Psychologist (the Psychologist). The Psychologist opined that the Individual met the criteria for two mental health disorders that could affect his judgment, reliability, and trustworthiness. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), the Individual testified on his own behalf. The LSO presented the testimony of the Psychologist. *See* Transcript of Hearing, OHA Case No. PSH-24-0160 (hereinafter cited as “Tr.”). The LSO submitted ten exhibits, marked as Exhibits 1 through 10 (hereinafter cited as “Ex.”). The Individual submitted thirty-six exhibits, marked as Exhibits A through AJ.

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<sup>1</sup> Under the regulations, “[a]ccess authorization’ means an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). Such authorization will also be referred to in this Decision as a security clearance.

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

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. That information pertains to Guideline I of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. 10 C.F.R. § 710.7.

Guideline I states that certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. Adjudicative Guidelines at ¶ 27. Conditions that could raise a security concern and may be disqualifying include:

- (a) 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;
- (b) An opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
- (c) Voluntary or involuntary inpatient hospitalization;
- (d) Failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions; and
- (e) Pathological gambling, the associated behaviors of which may include unsuccessful attempts to stop gambling; gambling for increasingly higher stakes, usually in an attempt to cover losses; concealing gambling losses; borrowing or stealing money to fund gambling or pay gambling debts; and family conflict resulting from gambling.

*Id.* at ¶ 28.

The LSO alleges that in December 2023, the Psychologist diagnosed the Individual with Delusional Disorder of Paranoid Type and Adjustment Disorder with Anxiety, Persistent. Ex. 1 at 1. The LSO further alleges that the Individual's symptoms result in emotional instability, poor judgment, and problems with trustworthiness and reliability during times of high stress. *Id.* The Psychologist is a duly qualified mental health professional contracted by the government to

evaluate individuals and, therefore, the Psychologist's opinion falls within concerning condition (b) of Guideline I. Ex. 9. Accordingly, the LSO's security concern under Guideline I is justified.

### III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." Adjudicative Guidelines ¶ 2(a). The protection of the national security is the paramount consideration. 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 so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

### IV. MEDICAL BACKGROUND

In early 2023, the Individual was transported from the DOE laboratory at which he is employed to a local emergency room because he was having a panic attack. Ex. 8 at 3. This incident triggered DOE to request that he undergo the evaluation by the Psychologist. *Id.* The Psychologist's report (Report) stated that the Individual had gone to the laboratory to complete a report he was writing to the Federal Bureau of Investigations (FBI) regarding communications he had received that he believed were suspicious, as well as a fire that occurred in his apartment complex and the presence of a suspicious vehicle. *Id.* When he reached the laboratory, the Individual had a panic attack while making a verbal report to security personnel and was then transported to the hospital by laboratory employees for treatment. *Id.*

During the evaluation, the Individual discussed several events with the Psychologist, and the Psychologist reviewed the Individual's security clearance application investigative file. Ex. 8. The Individual reported that he began receiving threats and harassing communications in 2018 when

he worked at a university laboratory after reporting ethics concerns about his research advisor to the university administration. *Id.* at 4. He described multiple fires that happened in the area where he lived at the time, one of which occurred at a laboratory in which he worked, and indicated that he believed they were connected to events surrounding his dismissal from the university. *Id.* at 5. He described receiving text messages twice from unknown numbers asking him if he was doing ok after a fellow student committed suicide; the Individual believed the texts to be targeted attempts to get him to commit suicide because he was a whistleblower. *Id.*

The Psychologist spoke to the Individual's previous mental health treatment provider who told her that the Individual had been overly suspicious but, as of the time of his treatment of the Individual, the Individual was able to engage in reality testing with the help of a treatment provider. Tr. at 6–7. The previous provider had recorded one instance of excessive alcohol consumption under stress, which had occurred in response to the Individual's concerns about being the target of foreign espionage. *Id.* at 7. The former treatment provider told the Psychologist that in a national security environment, the Individual would need access to a therapist and a psychiatrist, as well as someone at work with whom he could discuss security threats. *Id.* He believed the Individual could function appropriately in a national security environment if his anxiety was being treated. *Id.*

The Psychologist conducted a full mental status evaluation and administered several psychological tests. *Id.* The testing showed an unwillingness by the Individual to admit to minor shortcomings. *Id.* at 8. He also had elevations on validity scales assessing underreporting. *Id.* The Individual endorsed several items indicating a level of suspiciousness and paranoia high enough to be at an at-risk level. *Id.* In her report on the evaluation (the Report), the Psychologist wrote that “[w]hile this was not technically at a clinically significant level, in the context of likely underreporting, it is elevated enough to be of concern to DOE.” *Id.* Regarding the mental status exam, the Psychologist wrote that the Individual had some insight into the maladaptiveness of his suspicious and paranoid thinking and his emotional reactivity, but he had not adequately applied that insight to get the psychiatric support he needed. *Id.* at 9. She further wrote that the Individual had “questionable ability to engage in reality testing independently, evidenced by his making connections between occurrences which, to most others, seem unrelated and implausible” and that his reactions to those events were of “significant clinical concern.” *Id.* The Psychologist also wrote that the Individual had been unable to regulate his emotions adequately at times and his inability to discern between what is and is not real resulted in the Individual's emotional instability. *Id.* The Psychologist noted that the Individual refused to provide consent for her to access the medical records from his 2023 emergency room visit. *Id.*

The Psychologist concluded that the Individual had an emotional, mental, or personality condition or conditions that could impair judgment, reliability, stability or trustworthiness. Ex. 8 at 9. Using the *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, Text Revision* (DSM-5-TR), she opined that he had a Delusional Disorder of Paranoid Type and an Adjustment Disorder with Anxiety, Persistent. *Id.* She wrote that his symptoms resulted in emotional instability, poor judgment, and problems with trustworthiness and reliability during times of high stress. *Id.* She gave the Individual a guarded prognosis that “would likely improve if he were to re-engage in psychotherapy and medication management.” *Id.*

In preparation for the hearing, the Individual obtained an independent psychiatric evaluation from a psychiatrist (the Psychiatrist); the Psychiatrist met with the Individual once and was not his regular treatment provider. Ex. AC at 1. The Psychiatrist reviewed the Individual's exhibits and the Psychologist's Report (DOE Exhibit 8) and interviewed the Individual for four hours. Ex. A at 1–2. She concluded in her report that the Individual was an anxious individual “who can become more anxious and even paranoid during times of great stress,” but had never been “definitively delusional.” *Id.* at 2. She stated that “his paranoid beliefs have always been non-bizarre and at least remotely plausible.” *Id.* She opined that “whatever paranoia he may have is not clearly delusional and is not impairing his functioning to the degree that a psychiatric diagnosis would be warranted.” *Id.* at 3. She further wrote:

When I confronted him about these associations, [the Individual] acknowledged that they probably seem strange, but said he couldn't help wondering if there might be a connection. Wondering is different than being certain, and while this type of thinking might accurately be classified as suspicious and possibly paranoid (as [the Psychologist] noted in her report), delusions are by definition false beliefs that are firmly held despite incontrovertible evidence to the contrary. So I do not believe that these associations support a diagnosis of Delusional Disorder.

*Id.* at 11.

## V. FINDINGS OF FACT

At the hearing, the Individual testified that in 2017, he began pursuing a PhD at a university (University) with a well-known research program but became concerned about the ethics of certain researchers, including those of his research advisor, due to misappropriation of research and conflicts of interest. Tr. at 16–18; Ex. C at 1. At the time, the University's research program was under investigation by the National Institutes of Health. *Id.* at 18. In 2018, the Individual reported his concerns to the University's administration and was told that his research advisor had been given a warning. *Id.* at 16, 18, 174. A few months later, the Individual learned information which he believed constituted grant fraud. *Id.* at 23. He reported this to the University's administration. *Id.* The Individual testified that he was told the issues were “not egregious” and were “just business.” *Id.* The Individual began reporting alleged misconduct to various Federal Agency Inspectors General and to the FBI. *Id.* at 23–24. The Individual testified that he faced bullying and verbal threats that his career would end if he did not stop reporting his concerns. *Id.* at 24. He was moved to a new research advisor's office. *Id.* at 21.

The Individual was required to complete a research milestone by a certain date in 2020, the third year of his PhD program. Tr. at 24–25, 121. Several days before the deadline, the Individual entered the laboratory and found that his desk had been cleared. *Id.* at 121–22, 137. He believed, without evidence, that his original research advisor had cleared the desk. *Id.* at 121, 125. In frustration, the Individual kicked the desk, damaging a drawer, and then ripped a touch screen off

a computer monitor and broke it. *Id.* at 122, 132.<sup>2</sup> The Individual testified at the hearing that he only damaged the drawer and did not destroy it. *Id.* at 122. He further testified that the touch screen only cost twenty or thirty dollars. *Id.* at 132. He then changed his testimony, saying “it was actually already broken, . . . , but I ripped it off and then broke that. I think it was in the trash or disposed of.” *Id.* The Individual was asked to leave the laboratory, and when he returned a few days later, he found that he had been locked out of the building and that multiple police reports had been filed against him for vandalism, one with the local police and one with the University police. *Id.* at 122. He testified that he apologized to the police for losing his temper and that he was not charged with a crime. *Id.* at 123–24. The Individual was not allowed to return to the laboratory. Ex. 10 at 65. He was later able to locate some of his belongings. Tr. at 125. He confronted his former research advisor and asked where his belongings were. *Id.* The research advisor responded that he did not know. *Id.*

The Individual did not complete his research by the deadline, and he was asked to leave the program with a terminal master’s degree. *Id.* at 25, 134. However, he was removed from the program without receiving a master’s degree; the Individual testified that official reason given was that he had agreed to be removed from the program—which he stated was not accurate—but he believed that the real reason was retaliation for his disclosures to the Inspectors General and FBI. *Id.* at 25, 157–58.

Regarding the aberrant conducted noted by the Psychologist, the Individual testified that during his time at the University, two fires occurred near the offices of his research advisors. Tr. at 135. Also during that time, a fire occurred at a coffee shop near the laboratory. Ex. O. In January 2023, a fire occurred in a different part of his apartment complex. Tr. at 72. In early 2024, the Individual received a text message from an unknown number with an image of a gold star on a black background surrounded by three fire emojis. *Id.* at 127, 129; Ex. Z. The Individual argued that the image was threatening because he had experienced three fires. Tr. at 222. When reminded that the Individual considered himself affected by four fires at the time the text message was received, the Individual asserted that he had experienced three fires known to the sender, the identity of whom is not known. *Id.* at 223.

The Individual testified to receiving threatening communications and interactions over the course of the last few years, such as a text message from an unknown number that read “Did you find your keys,” a car he did not recognize driving into his apartment complex as he was leaving, a flyer addressed to Local Postal Customer for a free luncheon, a loud knock on his apartment door in 2023, and a brochure for a local retirement community for Chinese-speakers which was not addressed to him and was labeled Presorted Standard mail, a type of commercial bulk mail. Tr. at 30, 68, 71–72; Ex. AG at 1, 4–15. *See also* 200 Commercial Letters, Cards, Flats, and Parcels, Mailing Standards of the United States Postal Service Domestic Mail Manual, *available at* <https://pe.usps.com/text/dmm300/263.htm>. The Individual stated that he found the knock on his

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<sup>2</sup> The Individual testified that he damaged property in anger one other time in adulthood. Tr. at 133. He testified that he broke a keyboard when he was having computer issues. *Id.* To explain that incident, he testified, “at the time, I contributed [the computer issues] to that just bad luck, and then in hindsight, I considered that later as, you know, potentially cyber security issues. But I didn’t get that information until years later.” *Id.*

door in March 2023 threatening because it occurred in a “heightened threat environment . . . a couple weeks after the fire that occurred at my apartment complex.” Tr. at 155–56. The Individual also reported receiving a threatening text message in March 2023 that stated, “Excuse me, why does your name appear in my contact list. We met before? . . . I am [woman’s name].” Ex. I at 2. The Individual believed this was a threat because the woman’s name was part of the name of one of the researchers at the University who he did not know personally and had not seen in years. Tr. at 148–51. He acknowledged that there could be no connection but stated that he sent the text to the FBI anyway because he believed it to be harassment or a threat. *Id.* The Individual stated that he had not received a response from the FBI since 2020. *Id.* at 89.

During the background investigation for the Individual’s security clearance, investigators spoke to a source who worked at the University with the Individual, who told them that the Individual had e-mailed them proprietary documents related to their work that neither the Individual nor the source should have had. Tr. at 139; Ex. 10 at 75–76. The source told the investigators that the Individual sent them to her because “he felt it was information [the s]ource needed, as well as to give it to someone just in case something was to happen.” *Id.* The same source recommended the Individual for a security clearance with reservation, stating that she did not believe the Individual could handle a high stress position. Ex. 10 at 74. While they were at the University laboratory together, the source noticed that as the Individual experienced more stress, he became angrier and more paranoid. *Id.* at 75. When asked about the source’s report that he had sent her proprietary information neither of them should have had, the Individual testified that he did not “recall that specific incident.” Tr. at 139.

The Individual submitted a number of exhibits to the record, many of which he had labeled CUI (Controlled Unclassified Information) and LEI (Law Enforcement Information). Ex. G; Ex. H; Ex. I; Ex. L; Ex. M; Ex. Q; Ex. R; Ex. U; Ex. Z. The Individual also provided many of these documents to the Psychiatrist. Tr. at 141–42. The Individual testified that he believed CUI could only be provided to persons within the government for a lawful government purpose. *Id.* at 142. He further testified that a separate review and release process was required to release CUI outside the government. *Id.* When asked why he did not attempt to get permission before releasing to a member of the public information he believed to be CUI, he stated that he thought it was ok because it was for his hearing. *Id.* at 143. When asked who controlled the CUI in his exhibits, he stated, “I would say, I guess, me.” *Id.* at 144.

The Individual testified that he currently felt “threatened by some individuals.” Tr. at 127. He testified that he currently felt harassed. *Id.* The Individual testified on the issue further:

A [Individual]: Not every day, but occasionally I will get either threatening messages or threatening text messages or emails which I attribute to my whistleblowing activity.

Q [DOE Attorney]: And these are the types of messages that we’ve discussed before, like the, “Did you get your keys”?

A: Yeah. There's another one that was essentially like three fire emojis. There was like three fires with a star in the center of it. I interpreted that as threatening. But again, I don't know who that's coming from. It's just an unknown phone number.

Q: Do you currently feel that you are being targeted by people at [the University], by Dr. [Research Advisor], by the companies, by the Chinese government?

A: I think I've dealt with some harassment and some bullying. I don't think it's a super, massive coordinated effort by, like, the entire Chinese government. I think I've provided some incredibly valuable intel to the U.S. Government regarding intellectual property issues, and I think some of that is the blowback from some of the faculty that are currently under investigation, but that doesn't necessarily mean they're going to be charged.

So I don't think – from like a psychological standpoint of what you're asking, is the entire Chinese government after me? I would say no.

Q: Do you currently feel that you are being targeted?

A: By some individuals that were under investigation, I would say yes.

Q: And you said not the whole Chinese government. Do you believe that anybody from the Chinese government is currently targeting you?

A: I don't, I think, know anyone specifically that works for like a Chinese military agency, but I do have a postdoc that I know, who used to work in our laboratory, he's back in China, but I don't think he's targeting or is involved in any of that.

Q: Do you think – so who do you think is currently targeting you?

A: I think it's individuals that were in the, again, in the FBI probe.

Q: And the FBI probe is when you reported stuff to the Small Business Administration?

A: [Office of the Inspector General (OIG)]. [Department of Health and Human Services], OIG, yes, and then the FBI.

Q: And this is the probe that was in 2020[,] and you haven't heard anything from since?

A: I mean, if you look at, essentially, one of the last exhibits that we had, it lists a summary. The National Institutes of Health list a summary of their—the summary of their investigation so far, that 600—over 600 investigators throughout multiple universities within the U.S. were targeted and I guess in their investigation, some

of those resulted in a [Department of Justice (DOJ)] or an FBI referral. Some of them didn't.

Q: DOJ referral would be through criminal prosecution, right, not an FBI probe. So, what is the—okay. But you do believe that some people are currently targeting you?

A: Yes.

Q: Okay. And then, when is the last time you received a harassing or threatening text message?

A: I think the March text message was the one that I would say was harassment.

Q: March of 2023?

A: Sorry, 2023, yes. The one with the three fire emojis, yes.

Tr. at 128–29.

In February 2023,<sup>3</sup> the Individual was attempting to make a report to the FBI regarding text messages he had received from unknown numbers and an article he had seen about a classified DOE document about the origins of the COVID-19 pandemic. Tr. at 29, 159. While drafting his report, the file on his computer became corrupted and disappeared. *Id.* He went to the DOE laboratory to make his report. *Id.* at 30. As he was leaving his apartment complex, he saw a “suspicious vehicle” entering the apartment complex and began “having a large amount of anxiety.” *Id.* When he reached the lab, he made a suspicious activity report to the security guards stationed at the front of the laboratory. *Id.* Due to his high level of anxiety, one of the security guards asked if he wanted a health evaluation. *Id.* First responders at the laboratory asked if he wanted to go to the emergency room and, when he agreed, transported him there. *Id.* at 30, 161. The Individual testified that the first responders told him to “keep the information brief with the healthcare professionals at the emergency room,” and to “tell them you had a stressful day at work.” *Id.* at 30–31. The Individual was treated twice with Valium over a period of hours and released. *Id.* at 31. The Individual was sent a Letter of Interrogatory (LOI) by the LSO about the incident that stated “Record information in the possession of the DOE reports the [DOE Laboratory] First Responders transported you to the hospital in January 2023 after you experienced a panic attack. Is this information accurate?” Ex. 7 at 1. The Individual responded that the information was not accurate, but in his explanation did not contradict the facts as presented in the interrogatory. *Id.* At the hearing, the Individual testified that he took issue with the word “involuntary” and stressed that his visit to the emergency room was entirely voluntary and he was not admitted to a psychiatric facility. Tr. at 31, 37. The Individual testified:

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<sup>3</sup> The information provided by DOE during its investigation stated that the incident took place in January 2023. Ex. 7 at 1. It actually occurred on February 26, 2023. Tr. at 159.

I received a letter of interrogatory saying that I was involuntarily hospitalized, I believe it said in January of 2023, and that triggered, essentially, I think it's a large issue in my security clearance application that it said that it was an involuntary hospitalization. That information was not accurate. It was a voluntary visit to the emergency room.

*Id.* at 37. When told that the LOI did not refer to the voluntariness of his emergency room visit at all, the Individual testified that he thought it said it was an involuntary hospitalization, that he believed the LSO received information that he was involuntarily hospitalized, and that he believed this information triggered the LOI. *Id.* at 40–41. He further testified, “I don’t see this currently on this Exhibit 7, that it says involuntary. But I remember, and it’s possible I misinterpreted, but I—I personally remember that it said ‘involuntary’ when I went through that—that process.”<sup>4</sup> *Id.* at 43.

The Individual testified that he was treated by a mental health provider while in the PhD program, but since moving to the area of the DOE laboratory, he has not seen a provider for therapy or medication management. Tr. at 105–06. He testified that his former provider recommended continuing counseling and medication management with a provider in his new state. *Id.* at 105. He testified that he had not pursued treatment because he felt like he did not need it. *Id.* at 109–10.

The Psychologist testified that in her evaluation, the Individual declined to answer some of her questions and declined to sign the document waiver that the emergency room administration asked him to sign so his medical records could be released to her. Tr. at 177. She testified because of these actions, she concluded that the Individual had showed poor judgment and a lack of trustworthiness. *Id.* She was further concerned because the Individual provided the emergency room medical records to the Psychiatrist in preparation for the hearing. *Id.* at 184–85.

The Psychologist testified that during the evaluation, the Individual named several events that were seemingly unconnected and that when challenged, he would admit that it was possible that the events were unconnected but would continue to believe they were connected and behave as if they were. Tr. at 183. She testified that the Individual had significant anxiety when he thought about the events and lost control of his behavior or lost his temper. *Id.* She testified that the Individual reported information to the FBI that was trivial and unconnected and that he misinterpreted neutral text messages as threats. *Id.* at 184.

The Psychologist defined “delusion” as a belief that a person has that stands in contrast to reality and that they hold in spite of being presented with evidence to the contrary. Tr. at 181. She stated that delusions can be “regular delusion”—such as believing a superstar actress is in love with them or believing the government is spying on them—or “bizarre delusion”—such as believing someone stole their internal organs, but they are still alive. *Id.* In diagnosing the Individual with Delusional Disorder, the Psychologist considered several diagnostic criteria:

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<sup>4</sup> After seeing the notes in his medical file from the emergency room visit, the Individual attempted to have the emergency room doctor change his medical file to correct what he perceived to be inaccuracies. *Id.* at 79–80.

1. The delusion must be present for a month or longer;
2. The criteria for Schizophrenia, Part A, have never been met—meaning the subject does not have two or more of the symptoms of delusion, hallucination, disorganized speech, grossly disorganized or catatonic behavior, or negative symptoms such as diminished emotional expression or avolition;
3. Apart from the impact of delusions or their ramifications, functioning is not markedly impaired, and behavior is not obviously bizarre or odd;
4. If a manic or major depressive episode has occurred, it has been brief relative to the period of delusion; and
5. The disturbance is not attributable to the psychological effects of a substance or another medical condition and is not better explained by another mental disorder.

*Id.* at 178–79. At the hearing, the Psychologist testified that she had mislabeled the type of Delusional Disorder as Paranoid Type in her Report and that the Individual had Persecutory Type. *Id.* at 178. She testified that the central theme of Persecutory Type Delusional Disorder involves the subject’s belief that they are being conspired against and that small slights may become exaggerated and become the focus of a delusional system. *Id.* at 180. She further testified that the subject may engage in repeated attempts to obtain satisfaction by legal or legislative action. *Id.* She quoted from the DSM-5-TR, stating “[o]ften people with a delusional disorder may be able to factually describe that others view their beliefs as irrational, but are unable to accept this themselves, that is, there may be factual insight, but no true insight.” *Id.*

The Psychologist testified that the Individual connected several events that happened at the University and in the years after that were not logically connected and were, at best, circumstantially related. *Id.* at 182–83. She testified that even when presented with information to challenge his beliefs, the Individual would admit that it was possible that the events were not connected but maintain his belief that they were. *Id.* at 183.

The Psychologist was concerned by the Psychiatrist’s report. *Id.* at 184. Her initial concern was that the Individual had provided the Psychiatrist with information that he had expressly refused to present to her. *Id.* at 184–85, 187. *See also* Ex. 8 at 33 (email from the Individual to the Psychologist stating “[a]t this time, I am going to decline releasing medical information related to the [emergency room] visit”). She was further concerned that the Psychiatrist dismissed the seriousness of the Individual’s February 2023 emergency room visit, stating “people go to the ER every day, but it’s not a common occurrence for a person to have to go to the ER because they receive text messages and there’s a fire at their apartment [complex].” Tr. at 186. The Psychologist disagreed with the Psychiatrist’s characterization of delusions as false beliefs firmly held despite incontrovertible evidence to the contrary.<sup>5</sup> *Id.* at 190. The Psychologist testified that even if the

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<sup>5</sup> The DSM-5-TR defines delusions as “fixed beliefs that are not amenable to change in light of conflicting evidence.” Schizophrenia Spectrum and Other Psychotic Disorders, American Psychiatric Association, DSM-5-TR.

Individual did not meet the diagnostic criteria for Delusional Disorder, the Individual's paranoia still affected his behavior such that he demonstrates poor judgment, a lack of trustworthiness, a lack of reliability, and a lack of stability. *Id.* at 196–97.

The Psychologist expressed concern that the Individual's way of filtering what information he takes in or what is important resulted in a lack of candor, and she listed ways in which the Individual's actions, taken based on his paranoia and suspicion, gave rise to concerns about his judgment, trustworthiness, and reliability. Tr. at 192, 233. She testified that the Individual becomes "loose" (flustered, difficulty staying on track and following a clear train of logic, providing circumstantially relevant information instead of answering questions directly), disorganized and hostile when he is upset and confronted about his beliefs. *Id.* at 192. She testified that he has withheld information from his security clearance investigation by actively refusing to provide the medical notes from his emergency room visit. *Id.* She was concerned that the Individual has not internalized what CUI is or the rules surrounding it, despite having attended training on the subject, and testified that she believed his paranoia was "getting in the way of his being able to understand that." *Id.* The Psychologist testified that the Individual showed poor judgment when he came to drastically different interpretations than most people as to what would constitute a genuine threat. *Id.* at 193. She further testified that the Individual's elevation of trivial matters to the FBI or DOE laboratory security raised questions about his judgment and stability as well as questions about whether elevation of a serious issue could be found credible. *Id.* The Psychologist was also concerned that the Individual did not follow his former treatment provider's recommendation to continue with therapy and medication management. *Id.* at 193–94. She gave the Individual a prognosis of guarded to poor. *Id.* at 203.

## VI. ANALYSIS

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government places a high degree of trust and confidence in individuals to whom it grants access authorization. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

The issue before me is whether the Individual, at the time of the hearing, presents an unacceptable risk to national security and the common defense. I must consider all the evidence, both favorable and unfavorable, in a commonsense manner. "Any doubt concerning personnel being considered for access for national security eligibility will be resolved in favor of the national security." Adjudicative Guidelines at ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Because of the strong presumption against granting or restoring security clearances, I must deny access authorization if I am not convinced that the LSO's security concerns have been mitigated such that granting the Individual's clearance is not an unacceptable risk to national security.

As an initial matter, I find that the Psychologist's diagnosis is well-founded. The Individual holds beliefs regarding allegedly threatening actions and communications that are unreasonable and unsupported by evidence or facts. The connections are tenuous at best and barely circumstantial. He continues to hold these beliefs while admitting that the support for them is minimal, which is in line with the DSM-5-TR definition of delusion. The Psychiatrist incorrectly relied on the word "incontrovertible" to describe the contrary evidence needed for a belief to be a delusion. As the Psychologist confirmed in her testimony, the contrary evidence does not have to be incontrovertible. Tr. at 190. The Psychiatrist also stated that the Individual's lack of impaired functioning was evidence that a psychiatric diagnosis was not warranted. However, as the Psychologist noted in her testimony, lack of impaired functioning is one of the diagnostic criteria for Delusional Disorder. Tr. at 179. Additionally, I find the Psychologist's testimony regarding her process in formulating her diagnosis supports giving greater weight to her opinion over that of the Psychiatrist. For these reasons, I find the Psychiatrist's report to have less evidentiary value than that of the Psychologist.

Furthermore, I agree with the Psychologist that, even if the Individual could not be formally diagnosed with Delusional Disorder, his behavior, thought process, and judgment still raise concerns. At the hearing and at his psychological evaluation, the Individual was not forthcoming in his answers to questions, choosing to testify about unrelated issues instead of answering the question posed; on multiple occasions, the Individual had to be redirected several times before he would answer yes or no questions. *See, e.g.*, Tr. at 50–51, 56, 91, 126–27. He has also demonstrated a clear lack of insight into his own mental health struggles by deciding that he does not require treatment for paranoia and anxiety that cause him significant distress. Upon evaluation of the entire record, I continue to find that the LSO's invocation of Guideline I was appropriate.

Conditions that could mitigate Guideline I security concerns 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) Recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, 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 shows indications of emotional instability;
- (e) There is no indication of a current problem.

Adjudicative Guidelines at ¶ 29. None of the conditions apply in this case.

Regarding conditions (a) and (b), the Individual is not currently undergoing treatment, and thus the Individual has not satisfied these conditions.<sup>6</sup> Regarding condition (c), the Psychologist did not opine that the Individual's condition is under control, in remission, or has a low probability of recurrence or exacerbation. In fact, her testimony was the opposite. The Psychiatrist's opinion is not sufficient to make condition (c) apply. While the parties stipulated to the Psychologist's credentials as an expert in the field of psychology, the Psychiatrist was not a witness and, therefore, was not offered as an expert witness. The Psychiatrist's opinion was not subject to cross examination and, therefore, holds less weight than the testimony of the Psychologist in the areas where they disagree. Further, there is no evidence before me indicating that the Psychiatrist has been employed or has been accepted or approved by the U.S. Government. Regarding condition (d), the Individual continues to show indications of emotional instability, as evidenced by his insistence that neutral communications and actions are threats and harassment arising from incidents years ago. Even the Individual's Psychiatrist opined that he is anxious and paranoid and that high stress exacerbates these traits. Regarding condition (e), the issues initially identified by the LSO continue to this day. As such, I cannot find that condition (d) or (e) applies to mitigate the Guideline I concerns.

In reviewing this case using the "whole-person concept," of particular concern in the context of national security is the Individual's history of not protecting controlled or proprietary information. There is evidence that he has disseminated confidential information inappropriately in the context of sending proprietary information to which he should not have had access to a former colleague. He has demonstrated a lack of understanding of the most basic requirements of CUI protection. He believes that he can mark documents CUI even though he is not qualified to do so under government regulations. He provided information that he believed to be CUI to a private party outside the government without requesting any review or permission, despite knowing that such review and permission are required to disseminate CUI. However, when the DOE Psychologist asked him questions, he refused to provide her with some of that very same information. At best, the Individual had demonstrated carelessness and a lack of understanding of information security procedures that raises grave concerns. Accordingly, using the "whole-person concept," I cannot find that the Individual's judgment, trustworthiness, and reliability are sufficient for him to be eligible to hold a security clearance.

For the foregoing reasons, I find that the Individual has not mitigated the security concerns raised under Guideline I.

## VII. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual's eligibility for access authorization under Guideline I of the Adjudicative Guidelines. I further find that the Individual has not succeeded in fully resolving those concerns. Therefore, I cannot conclude that granting DOE access authorization to the

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<sup>6</sup> The Psychiatrist was hired by the Individual to conduct a psychiatric evaluation and there is no evidence that the Individual is currently being treated by the Psychiatrist. Ex. AC at 1.

Individual “will not endanger the common defense and security and is clearly consistent with the national interest.” 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should not grant access authorization to the Individual.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Kristin L. Martin  
Administrative Judge  
Office of Hearings and Appeals