

In April 2024, the Individual self-reported his March 2020 consumption of the marijuana edible to his manager (Manager), who in turn completed a Personnel Security Information Reporting Form (PSIR Form) and submitted it to the LSO. Ex. 5 at 23–24; Hearing Transcript, OHA Case No. PSH-25-0012 (Tr.) at 93. Then, in his June 2024 response to a Letter of Interrogatory (LOI) issued to him, the Individual disclosed his October 2017 marijuana use and his May 2021 Salvia uses. Ex. 6 at 28, 33. The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 7. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E and H of the Adjudicative Guidelines. *Id.* at 5–6.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted nine exhibits (Ex. 1–9). The Individual submitted seven exhibits (Ex. A–G). The Individual testified on his own behalf and offered the testimony of five additional witnesses: (1) his mother (Mother), (2) his fiancée (Fiancée), (3) his roommate (Roommate), (4) his coworker (Coworker), and (5) his Manager. Tr. at 3.

II. THE SECURITY CONCERNS

Guideline E relates to questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. Adjudicative Guidelines at ¶ 15. Especially concerning is the refusal to be truthful and honest during the administrative review process. *Id.* In citing Guideline E, the LSO relied upon the Individual’s (1) failure to report his illegal drug use when completing his 2018 and 2022 QNSPs and (2) his intentional controlled substance misuse while holding a security clearance and related failures to report. Ex. 1 at 5. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines E. *See* Adjudicative Guidelines at ¶ 16(a)–(b) (indicating that deliberate omission of relevant facts from a personnel security questionnaire and concealing information from an employer or security official may present security concerns under Guideline E).

Guideline H relates to the illegal use of controlled substances, including prescription and non-prescription drugs. Adjudicative Guidelines at ¶ 24. “The illegal use of controlled substances . . . can raise questions about an individual’s reliability and trustworthiness . . . because such behavior may lead to physical or psychological impairment and because it raises questions about a person’s ability or willingness to comply with laws, rules, and regulations.” *Id.* In citing to Guideline H, the LSO relied upon (1) the Individual’s 2017 use of marijuana; (2) his March 2020 consumption of a marijuana edible; and (3) his two uses of Salvia in May 2021.³ Ex. 1 at 5–6. There is sufficient

³ The SSC has two repeated typographical errors throughout: (1) referencing the March 2020 consumption of a marijuana edible as occurring in March “2000” and (2) misspelling Salvia as “Saliva.” Ex. 1 at 5–6. Despite the errors, the Individual has notice of the concerns given that the SSC cited to the Individual’s self-disclosures in his response to the LOI and PSIR Form, which was submitted by the LSO as Exhibit 5. *Id.*; Ex. 5 at 23–24. Furthermore, at the hearing, the parties confirmed that these were typographical errors and that the Individual had no dispute as to having notice of the concerns. Tr. at 10.

derogatory information in the possession of DOE to raise security concerns under Guidelines H. *See* Adjudicative Guidelines at ¶ 25(a), (f) (indicating that any substance misuse, as well as any illegal drug use while granted access authorization, may present security concerns under Guideline H).

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 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 Dep't 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).

An 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). An individual is afforded a full opportunity to present evidence supporting his or her 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.* at § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

A. 2017, 2020, and 2021 Drug Use Prior to and While Holding a Security Clearance and Related Failure to Report

The Individual attended undergraduate school from 2017 to 2021. Ex. 7 at 45; Tr. at 105. He then received a master's degree in May 2022. Tr. at 105. He was a freshman when, in October 2017, he tried a marijuana vape "offered to [him] by a friend of a friend⁴ while . . . camping." Ex. 6 at 28. The Individual reported that the marijuana "made [him] slow[-]minded and anxious" and that he had tried the drug because he "was a freshman in college and [] curious." *Id.* Six months later, in April 2018, the Individual first applied for access authorization in connection with an internship with a DOE contractor. Ex. 8 at 102; Tr. at 107 (Individual testifying he was 18-years-old at the time he applied). In his 2018 QNSP, he certified that he had not engaged in any illegal drug use in the last seven years. Ex. 8 at 96. The Individual explained that he omitted his 2017 marijuana use because he "feared [he] would not be given a job or clearance" and that he "did not understand the purpose of the questionnaires and investigation process." Ex. 6 at 28; *see also* Tr. at 113 (Individual

⁴ The Individual testified that he had not seen this individual since the camping trip. Tr. at 108.

testifying that he “was young and feared that [he] wouldn’t be eligible for the position or [] wouldn’t get . . . a clearance”).

The Individual subsequently became a year-round undergraduate intern, holding a clearance, from April 2018 to August 2021 and thereafter served as a graduate student intern until July 2022. Tr. at 105–06; Ex. 7 at 46, 66. Contemporaneous with his undergraduate internship requiring that he maintain his access authorization, the Individual in March 2020 consumed a marijuana edible. Ex. 6 at 26. The Individual “was a junior in college at the time on spring break” at a “camping/rock climbing trip.” *Id.* He had “never [tried] a marijuana edible before[,]” and when offered the edible by an acquaintance,⁵ he “accepted due to curiosity[⁶] . . .” *Id.*; Tr. at 109. The Individual reported that the marijuana made him, again, “slow[-]minded and anxious.” Ex. 6 at 26; *see also* Tr. at 110 (testifying to feeling “physically frozen”). The Individual indicated that, “[a]t the time, [he] did not fully understand the responsibility of holding a security clearance” and admitted that the “activity was irresponsible and should have been reported immediately.” Ex. 6 at 29. Regardless he failed to immediately report the drug use because he “feared that [he] might lose [his] job.” *Id.*; *see also* Tr. at 124 (Individual testifying (1) that he did not really use his clearance and thus did not “understand the responsibilities that came with” holding a clearance and (2) that at the time the possibility of losing his clearance and job had “cross[ed] [his] mind”).

In May 2021, the Individual smoked Salvia twice within “about a week” despite being aware that it was a “mind-altering drug.” Ex. 6 at 33; Tr. at 113. Prior to using the drug, the Individual discussed with his Fiancée that a friend⁷ had procured the drug and that he wanted to use it in a “controlled environment.” Tr. at 47, 51–52, 125. He also researched the drug to learn if the drug was illegal. *Id.* at 125. His friend had suggested that he try the drug, and he was “again curious” about “a new experience.” Ex. 6 at 33. The first time he tried Salvia, he felt no effect. *Id.*; Tr. at 112. The second time he tried Salvia he felt lightheaded and bouncy for approximately 15 to 30 seconds. Ex. 6 at 33; Tr. at 112. The Individual expressed that “[t]o [his] knowledge/understanding, Salvia [was] not illegal and [] not on the controlled substances list, so [he] did not report” his usage. Ex. 6 at 33; *see also* Tr. at 112 (Individual responding “No” when asked if he believed the drug was illegal at the time he used the drug).

B. 2022 QNSP, Continued Failure to Report, and Eventual Reporting

In May 2022, the Individual applied for a higher level of access authorization in connection with new employment. Ex. 8 at 67. He falsely certified that he had not used drugs within the last seven years. *Id.* at 59. He also falsely certified that he had not ever illegally used drugs while possessing a security clearance. *Id.* at 60. At the hearing, the Individual again explained that he had not reported his prior 2017 marijuana use and 2020 marijuana consumption out of “fear that [he] wouldn’t be eligible for . . . the position or clearance” or that he would “get fired.” Tr. at 113; *see also* Ex. 6 at 31 (Individual explaining that he “withheld information and falsified answers . . . out

⁵ The Individual testified that he has not purposefully spent time with the acquaintance since October 2020 and that he ran into the acquaintance at a clothing store about a year ago. Tr. at 110.

⁶ Despite his prior experience with marijuana in 2017, he thought that because the drug was “in a different form” he might have a different experience. Tr. at 123. Instead, he indicated, he experienced “the same result.” *Id.*

⁷ The Individual still associates with this friend. Tr. at 129.

of fear of losing [his] job . . .”). He also indicated that he had not reported his Salvia uses because, again, he “didn’t think it was illegal.” Tr. at 113.

The Individual indicated that his knowing omissions of his drug use “really didn’t start weighing on [him] until [he] started in [his] new position in July [] 2022.” Tr. at 133. Nearly two years after the Individual had submitted the 2022 QNSP, the Individual finally came forward to report his illegal drug use in April 2024; he first disclosed his consumption of the marijuana edible to his Manager, who in turn submitted a PSIR Form to the LSO. *Id.* at 94–95; Ex. 5 at 23–24. Then, in his June 2024 response to the LOI, the Individual for the first time disclosed his 2017 marijuana use and the 2021 Salvia uses.⁸ Ex. 6 at 28, 33.

The Individual testified that he had come forward because he “had never felt quite right about holding this information to [him]self.” Tr. at 114–15. The Individual explained that his drug use and failure to report were “mistakes” from when he was “younger” and that he had since “done a lot of growing and maturing.” *Id.* at 115. The Individual wanted to “start over with a . . . clean state . . .” *Id.* The Individual in his June 2024 response to the LOI provided that “[s]ince working in [his] new position, [he] now understand[s] what the clearance process is meant to do” and “what it means to hold a security clearance.” Ex. 6 at 33; *see also* Tr. at 115 (Individual testifying to “better understand[ing] [his] position” and not “want[ing] there to be anything out there that could be used to coerce or blackmail [him]”). The Individual affirmed that he had no intention of ever using drugs illegally in the future and explained that he would not repeat his past mistakes given his maturity and given the fact that his mistakes had led to a buildup of anxiety. Tr. at 115–16; *see also* Ex. 6 at 29 (Individual’s June 2024 LOI response affirming that he had no intention “to use illegal drugs or illegally use controlled substances in the future”). The Individual testified that he “came forward to show good faith and transparency” and “recognized the risk[] that [he] could lose [his] clearance.” *Id.* at 119. Regardless of those risks, the Individual disclosed his use since “it’s the right thing to do” and because he “wouldn’t want to keep working in the same position with this weight on [his] chest.” *Id.*

C. Testimony Regarding the Individual’s Character

The Individual’s Mother testified that she was unaware of his drug use until she learned that his clearance was suspended in November 2024. Tr. at 14. She stated that she has always found him to be very trustworthy, very reliable, and very honest, with excellent judgment. *Id.* at 14, 17. His Mother asserted that the Individual is not prone to telling lies. *Id.* at 14. She claimed that she “always found him willing to follow rules and regulations.” *Id.* at 18. His Mother believed his drug use was experimental because he was away at college. *Id.* at 15. She concluded that the Individual has learned that he needs to be “honest to a fault.” *Id.* at 24.

The Roommate testified that he has known the Individual since 2013, when they met during high school. Tr. at 28. They have lived together for approximately two and a half years and have daily contact. *Id.* at 29. The Individual first told the Roommate about the security concerns in December 2024. *Id.* The Roommate testified that he had no reason to suspect the Individual had used illegal

⁸ The Individual testified that, although he believed Salvia to be a legal drug, he disclosed the Salvia uses “out of an abundance of caution” and “to be transparent to the DOE . . .” Tr. at 114.

substances as he has never seen illegal substances in the Individual's possession. *Id.* at 30, 34. He also stated that the Individual is the most reliable person he knows, and he trusts the Individual with his life. *Id.* at 30. Like the Individual's Mother, the Roommate proclaimed that the Individual is a "rule follower to the T." *Id.* The Roommate continued that the Individual is the "best person he knows" and the best of their friend group. *Id.* at 31. The Roommate also stated that friends have had drugs in their possession at the Individual's and Roommate's residence, but the friends leave the home to use the drugs outside.⁹ *Id.* at 34–35.

The Individual's Fiancée indicated that she first met the Individual five-and-a-half years ago and that they have daily contact. *Id.* at 44. She indicated that the 2017 drug use occurred before she had met him and that the 2020 drug use occurred before they had entered a romantic relationship. *Id.* at 46. They were dating at the time the Individual decided to use Salvia in 2021, and they had discussed him using the drug beforehand; however, she was not present when he used the drug. *Id.* at 46–47. She testified that the Individual seemed motivated by curiosity and recounted that the Individual "didn't . . . feel anything" and had "no intentions of doing it again" after May 2021. *Id.* The Fiancée indicated that the Individual discussed his intention to self-disclose beforehand. *Id.* at 45. She testified that the Individual is a "very by the book person" and that while "deciding to self-disclose was difficult, [] he knew it was the right thing to do" *Id.* at 48, 50; *see also id.* at 56 (testifying that the Individual had "anxieties" related to not reporting and was "struggling with it internally . . ."). She also confirmed that the Individual had expressed his intention to not abuse drugs in the future and that there are no indications that the Individual had a drug or drug dependency problems. *Id.* at 47–48.

The Individual's Coworker indicated that he met the Individual two-and-a half years ago when the Individual joined their place of employment. *Id.* at 61. The two have nearly daily contact in the workplace but do not socialize outside of work. *Id.* at 61–62. The Individual disclosed to the Coworker the security concerns raised by the LSO. *Id.* at 62–63. The Coworker described the Individual as "consistent" and "dependable" and observed no "indication . . . that would make [him] . . . think that . . . there was a drug concern that would impact his performance." *Id.* at 63. He testified that "there's never been any question of [the Individual's] integrity or honesty" and that "he's a highly reliable individual." *Id.* at 65. The Coworker also noted that the Individual had come forward voluntarily, which the Coworker believed was "a positive metric . . . indicating trustworthiness." *Id.* at 77.

The Individual's Manager indicated that he has known the Individual since 2022 and has contact with the Individual a few times per week in the workplace. *Id.* at 85–86. The Individual's Manager testified that he never suspected the Individual to have any issues with drugs and never questioned the Individual's candor in the workplace. *Id.* at 87. The Manager confirmed that the Individual first reported his drug use to him in April 2024 as part of the disclosure to the LSO. *Id.* at 93. He described the Individual as "trustworthy" and that he has "seen nothing but good judgment from [the Individual]." *Id.* at 89–90. While the Individual had not originally disclosed his drug use, the

⁹ The Individual's Fiancée also testified that she had "seen some use of marijuana" at the household. Tr. at 53–54. The Individual indicated that, when he is in a large group of his friends where others might do drugs like marijuana, he ensures that the drugs are done outside his proximity and when he is not present. *Id.* at 117–18.

Individual's Manager credited that the Individual came forward outside the "time pressure" of a "reinvestigation" or "upcoming polygraph test." *Id.* at 91.

V. ANALYSIS

Based on the record before me, I am not convinced that the Individual has fully mitigated the LSO's security concerns. I first address the Guideline H concerns and then the Guideline E concerns.

A. Guideline H

Conditions that could mitigate Guideline H security concerns include:

- (a) The behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) The individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
 - (1) Disassociation from drug-using associates and contacts;
 - (2) Changing or avoiding the environment where drugs were used; and
 - (3) Providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) Satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Adjudicative Guidelines at ¶ 26. As a preliminary matter, mitigating conditions (c) and (d) lack application, as the concerns raised do not include prescription drugs and because no testimony or documentary evidence was provided regarding substance abuse treatment.

To start, I credit the Individual's testimony that he has not engaged in illegal drug use since May 2021 and that his drug use was limited to the four incidents that he self-disclosed. In crediting his testimony, I weigh several factors. I weigh heavily that the Individual self-reported incriminating information and that he is motivated to be completely forthcoming at this point despite the risk of losing his clearance and job. Furthermore, during the hearing, the Individual provided information consistent with his earlier written explanation for his actions; freely provided specific details into his personal life and state of mind; and gave non-combative, direct answers when asked leading

questions despite the answers reflecting poorly on him. While his behavior reflects past poor judgment on his part, his conduct—starting from when he finally reported his drug use in April 2024 and during the hearing—reflects that he is now being honest.

Regarding mitigating condition (a), the drug use occurred in October 2017, March 2020, and then twice in May 2021. I cannot find that the drug use happened under “unusual circumstances” given the mundane details surrounding the drug use. Oftentimes, the Individual used or consumed marijuana when camping, and all instances of substance abuse occurred when a friend or acquaintance simply offered the drug or had the drug available. Some of the behavior may be attributed to youth or curiosity; however, his Salvia use occurred after he received his Bachelor’s degree and while he was aware of his responsibilities regarding illegal drug use and the potential consequences regarding his ability to maintain his security clearance and employment. On the other hand, that the drug use occurred four times over multiple years demonstrates that the substance abuse was infrequent. Furthermore, the substance abuse last occurred in May 2021, nearly three years and eight months ago, which is virtually equal to the timespan over which he used drugs illegally and dwarfs the four isolated days on which he abused drugs. Accordingly, I find that the drug use also occurred long ago.

There are also several indications that the illegal drug use is unlikely to recur. While there is some testimony that some of his friends continue to abuse drugs, the Individual has expressed that, when his friends engage in drug use, he ensures that it is not happening in his proximity. Additionally, the Individual indicated that the drug use occurred in his youth and out of curiosity, but he has now affirmed—both in his June 2024 response to the LOI and in his hearing testimony—that his intention is to no longer use drugs. I credit his testimony and affirmation that he no longer intends to abuse drugs in the future, given the fact that the Individual came forward without being confronted with the information and given his self-disclosure while well aware that he may lose his clearance and job. Given that the drug use was infrequent, occurred long ago, and is unlikely to recur, I find mitigating condition (a) to apply.

Regarding mitigating condition (b), the Individual has acknowledged his drug involvement and substance misuse by coming forward of his own volition. He has also provided evidence of overcoming the problem and establishing a pattern of abstinence for many of the same reasons I stated above. I have credited his account that he has been abstinent from drugs for three years and eight months. The Individual does not associate with the individuals who provided him with marijuana in 2017 and 2020. The Individual provided a signed statement, in his June 2024 response to the LOI, that he has no intention to use illegal drugs or illegally use controlled substances in the future. However, the Individual still associates with the friends who provided him with the Salvia and has continued to attend gatherings where drugs are being consumed—even outside his home. Accordingly, I cannot find mitigating condition (b) satisfied.

I find that the Individual has satisfied mitigating condition (a) and that the Individual has resolved the security concerns asserted by the LSO under Guideline H.

B. Guideline E

Guideline E concerns may be mitigated if:

- (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.

In summary, I have continuing concerns that the Individual (1) provided false information about his 2017 marijuana use upon applying for access authorization in 2018; (2) continued failing to report his 2017 marijuana use until 2024; (3) used marijuana in 2020 understanding that it jeopardized his clearance and position; (4) failed to report the 2020 marijuana use until 2024; and (5) provided further false statements on his 2022 QNSP, despite the opportunity to come forward at the time. Even disregarding that the Individual believed Salvia to be a non-reportable use of a drug, the Individual failed to report drug use starting in 2018 until 2024, a nearly six-year period of dishonesty. There is no dispute that he knew he provided false information and was required to report his marijuana uses. The Individual testified that he began to appreciate the gravity of his dishonesty in 2022; however, he still only came forward in 2024.

Regarding mitigating condition (a), the Individual came forward before being confronted with the facts and in good faith, in consideration of the fact that the Individual self-reported despite the risk

to his access authorization and his job. However, it cannot be said that he came forward promptly. As stated above, the Individual concealed his drug use over a six-year period. Mitigating condition (a) does not apply.

Regarding mitigating condition (b), the Individual's behavior cannot be attributed to the advice of legal counsel or a person with relevant professional responsibilities. Accordingly, mitigating condition (b) does not apply.

Regarding mitigating condition (c), I find that the continued concealment of his drug use and the falsifications of the 2018 and 2022 QNSPs to be serious concerns. The omission and falsifications cannot be described as minor given the seriousness of the following: (1) the Individual knowingly furnished false information in the 2018 QNSP; (2) the Individual understood the risk but still consumed the marijuana edible in 2020 while holding access authorization; (3) the Individual had an opportunity to come forward in the 2022 QNSP but again knowingly provided false information; and (4) the concealment of his instances of drug abuse continued over a six-year period. The purposefulness, the length of time, and the disregard toward the investigative process and reporting requirements simply cannot be considered minor.

I also cannot find the behavior so infrequent or to have occurred so long ago given that (1) the concealment occurred essentially every day for about six years and (2) the Individual first came forward in April 2024, less than a year ago. Additionally, above, I found the drug use did not occur under unusual circumstances. Similarly, I cannot find the related concealment and falsifications to have occurred under unique circumstances. While the original falsifications and concealment might be attributed to youth and a fear of losing his clearance and employment, those circumstances are not remarkable in a way that mitigates the concerns raised. Accordingly, mitigating condition (c) does not apply.

Regarding mitigating condition (d), the Individual has acknowledged the prolonged concealment and also testified that he came forward in part to avoid the possibility of future blackmail. However, I have no evidence of counseling. While the Individual has taken positive steps, insofar as he finally disclosed his drug use in April 2024 and June 2024, I cannot find that the behavior, at this time, is unlikely to recur. Even after the Individual had stopped using drugs, the Individual continued to conceal this information for several years. Furthermore, while I have testimony regarding the Individual's good character and while the Individual has acknowledged that he has matured from this experience, I find that the six-year period of dishonesty outweighs the relatively recent evidence of changed behavior. *See* 10 C.F.R. § 710.7(c) (requiring consideration of, among other things, "[t]he nature, extent, and seriousness of the conduct[, and] the frequency and recency of the conduct," in applying the Adjudicative Guidelines). Since I cannot make a finding that the behavior—specifically the dishonesty—is unlikely to recur, mitigating condition (d) does not apply.

Regarding mitigating condition (e), the LSO did not raise any concerns regarding personal conduct that could result in vulnerability to exploitation, manipulation, or duress. Mitigating condition (e) lacks application.

Regarding mitigating condition (f), there exists no dispute as to the reliability of the information because the Individual came forward. Mitigating condition (f) lacks application.

Regarding mitigating condition (g), the concerns raised by the LSO did not involve the Individual's association with those involved in criminal activities. Accordingly, mitigating condition (g) also lacks application.

For the aforementioned reasons, I find that none of the mitigating conditions are applicable to the facts of this case and that the Individual has not resolved the security concerns asserted by the LSO under Guideline E.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines E and H of the Adjudicative Guidelines. After considering all the relevant information, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual brought forth sufficient evidence to resolve the Guideline H concerns. I also find, however, that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Notification Letter under Guideline E. Accordingly, I find the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Janet R. H. Fishman
Administrative Judge
Office of Hearings and Appeals