



psychologist (DOE Psychologist) for a psychological assessment. Ex. 8 at 34. On August 19, 2024, the DOE Psychologist issued a report of the psychological assessment (Report) in which she indicated that, although the Individual did not display symptoms sufficient to diagnose him with any condition under the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*, the Individual’s “pattern of defensiveness” demonstrated an emotional, mental, or personality condition or that could impair his judgment, stability, reliability, or trustworthiness. *Id.* at 38–39.

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 6–8. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline I of the Adjudicative Guidelines. *Id.* at 5.

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 ten exhibits (Ex. 1–10). The Individual submitted eleven exhibits (Ex. A–K).<sup>3</sup> The Individual testified on his own behalf at the hearing and offered the testimony of his counselor (Individual’s Counselor) and his psychologist (Individual’s Psychologist). Transcript of Hearing, OHA Case No. PSH-25-0033 (Tr.) at 3, 12, 51, 130. The LSO offered the testimony of the DOE Psychologist. *Id.* at 3, 159.

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

The LSO cited Guideline I (Psychological Conditions) of the Adjudicative Guidelines as the basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 5. “Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness.” Adjudicative Guidelines at ¶ 27. The SSC cited the DOE Psychologist’s opinion that the Individual’s “pattern of defensiveness” demonstrated “an emotional, mental or personality condition that can impair judgement, stability, reliability[,] or trustworthiness.” Ex. 1 at 5. The opinion of the DOE Psychologist, that the Individual has a “condition that may impair [his] judgment, stability, reliability, or trustworthiness” justifies the LSO’s invocation of Guideline I. Adjudicative Guidelines at ¶ 28(b).

## 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 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”

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<sup>3</sup> The Individual’s exhibits were submitted as a single PDF file. This Decision cites to pages within the PDF file in the order in which they appear without regard to their internal pagination.

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 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.

#### IV. FINDINGS OF FACT

In 2020, the Individual commenced an extra-marital affair with Ms. X who was also married at the time. Ex. 8 at 34 (reflecting information provided by the Individual to the DOE Psychologist in a clinical interview). After several months, the Individual revealed the affair to his wife. *Id.* The Individual and Ms. X discontinued the affair, and the Individual attempted to sustain his marriage. *Id.* As part of his efforts to repair his marriage, the Individual and his wife began meeting with a therapist for faith-based marital counseling. *Id.* at 35; Tr. at 58. However, the Individual’s wife filed for divorce in 2022. Ex. 8 at 35. At some point in 2022, Ms. X obtained employment at the DOE site at which the Individual is employed. *Id.* at 34. The Individual and Ms. X then resumed their relationship. *Id.* According to the Individual, Ms. X wished to marry him and he “probably told her things she wanted to hear in order to avoid an argument” despite having no intention of marrying her. Ex. 6 at 23 (reflecting information the Individual provided to the Site Psychologist).

The therapist who provided marital counseling to the Individual and his wife suggested to the Individual that he might have depression and bipolar disorder. Ex. 8 at 34. The Individual subsequently told his primary care physician (PCP) about the therapist’s opinion and that he was feeling symptoms of depression related to his divorce. *Id.*; Tr. at 60. The PCP prescribed the Individual a mood stabilizer used to treat symptoms of bipolar disorder and an antidepressant. Ex. 8 at 35; *see also* Ex. 7 at 27 (reflecting information provided by the Individual in response to the LOI).

In his hearing testimony, the Individual stated that he initially felt no effect from the medication until the PCP increased the dosage at which point he felt “tired” and a state of “zombieness” such that he lacked energy, motivation, or “any feelings.” Tr. at 63–64, 84. In late 2023, the Individual attempted to wean himself off of his medication by reducing his dosage by fifty percent due to his negative symptoms. *Id.* However, after one or two weeks the Individual returned to his normal dosage because he began feeling aggravated and found himself yelling at his children and Ms. X which was not normal behavior for him. *Id.* at 104–07.

In March 2024, the Individual ended his relationship with Ms. X. Ex. 8 at 34; Tr. at 87. Shortly following the end of the Individual’s relationship with Ms. X, Ms. X submitted a written report to

the DOE site indicating that the Individual “frequently came off of his medication” and that he experienced suicidal ideation and engaged in abusive behavior when he did so. Ex. 6 at 23. On March 11, 2024, the DOE site required the Individual to meet with the Site Psychologist. *Id.*

During the meeting with the Site Psychologist, the Individual attributed Ms. X’s report to the DOE site to retaliation for his having broken off their relationship. *Id.* The Individual acknowledged that he had been diagnosed with bipolar disorder and that he had unsuccessfully attempted to “wean off” of the medication prescribed to him by the PCP. *Id.* The Individual indicated that he felt “increased irritability” and had a “short fuse” when weaning off of the medication which led him to resume using it as prescribed “several months” prior to Ms. X’s report. *Id.* The Individual denied that he was experiencing heightened anger or irritability as of the date of the meeting with the Site Psychologist or that he had ever experienced suicidal ideation. *Id.*

The Site Psychologist advised the Individual that he should continue to take his medication as prescribed, and the Individual indicated that he understood the importance of doing so and would comply. *Id.* At the request of the Individual, the Site Psychologist also provided him with recommendations for a therapist. *Id.* The Site Psychologist perceived the Individual to have been “forthright,” “cooperative,” and “receptive” during the evaluation. *Id.*

In April 2024, Ms. X obtained an order of protection against the Individual based on allegations of “stalking” and “physical/mental abuse.” Ex. 8 at 35. Personnel at the DOE site initiated an investigation of Ms. X’s allegations, but discontinued the investigation without a finding after the order of protection was dismissed in May 2024. *Id.*

In his June 2024 response to the LOI, the Individual indicated that “someone” might have filed the March 2024 report because she was “worried” after he did not respond to her calls. Ex. 7 at 25; *see also* Ex. 8 at 34 (indicating during the clinical interview with the DOE Psychologist that Ms. X might have been “genuinely concerned” about him because he was intentionally ignoring her text messages and not responding). The Individual represented that the Site Psychologist had determined that he “was fine and even thought the [medication he was] on [was] unneeded.” Ex. 7 at 25. The Individual acknowledged his previous attempt to wean off of his medication but indicated that he was taking his medication as prescribed and would consult with the PCP before attempting to discontinue the medication again. *Id.* at 25–26. He further opined that “nothing” would happen if he discontinued using the medication. *Id.* at 27.

On August 6, 2024, the Individual met with the DOE Psychologist for a psychological assessment. Ex. 8 at 34. During the clinical interview portion of the assessment, the Individual denied Ms. X’s allegations of abuse, stalking, and suicidal ideation. *Id.* at 34–35. The Individual speculated that Ms. X’s March 2024 report to the DOE site might have been motivated by concern for his wellbeing but that he believed that her April 2024 allegations of stalking and abuse were motivated by having “a hard time” as a result of their breakup. *Id.* at 35. The Individual characterized Ms. X as having been “the one who caused [his] divorce” and that their relationship resulted from him having failed to “keep her at bay.” *Id.* at 37–38. The Individual indicated that he and Ms. X were “friends,” and that he bore no ill will towards her. *Id.* at 37.

The Individual expressed the opinion that he was misdiagnosed with bipolar disorder and denied experiencing symptoms of bipolar disorder. *Id.* at 35–36. When asked by the DOE Psychologist what he experienced when he did not take his medication as prescribed, the Individual provided what the DOE Psychologist characterized as a “vague” description of “not feeling well” and stated that he “resumed the medication because he realized he probably should not discontinue such a medication abruptly without talking with his doctor first.” *Id.* at 36. The Individual told the DOE Psychologist that he had consulted with the PCP and that the PCP had agreed to supervise the Individual weaning himself off of his prescribed medication. *Id.*

As part of the psychological assessment, the DOE Psychologist administered the Minnesota Multiphasic Personality Inventory-3 (MMPI-3) to the Individual. *Id.* at 35. The Individual produced elevated responses on the L (Uncommon Virtues) and K (Adjustment Validity) scales. *Id.* at 43. According to the DOE Psychologist, the elevations on these scales caused by the Individual’s denial of common faults and shortcomings was indicative of defensiveness and “invalidate[d] the testing.” *Id.* at 35–36.

Following the psychological assessment, the DOE Psychologist contacted the Site Psychologist. *Id.* at 36. The Site Psychologist told the DOE Psychologist that she had instructed the Individual to “take [his] medication as prescribed” and advised him of the “importance of medication compliance with bipolar disorder.” *Id.*

The DOE Psychologist issued her Report on August 19, 2024. *Id.* at 39. In the Report, she indicated that she lacked sufficient information to conclude that the Individual met sufficient diagnostic criteria for a diagnosis of bipolar disorder or for the diagnosis to be “ruled out.” *Id.* at 36. However, she concluded that the Individual’s “pattern of defensiveness as evidenced by significant denial/minimization of problems, discrepant reporting, misrepresenting information, and rejecting of opinions of mental health providers is suggestive of . . . a ‘mental condition’ that . . . [has] impair[ed] his judgment, reliability, stability, and trustworthiness.” *Id.* at 39. In support of this mental condition, the DOE Psychologist cited the following:

- The Individual inconsistently told the Site Psychologist that he experienced “irritability” and a “short fuse” when he sought to wean off of the medication, stated that “nothing” would happen if he discontinued using medication in response to the LOI, and reported vague symptoms of “not feeling well” when he discontinued medication use to the DOE Psychologist;
- The Individual responded to the MMPI-3 in a “highly defensive” manner;
- The Individual denied recollection of the name of the therapist who initially suggested to him that he might have bipolar disorder, which the DOE Psychologist perceived as having “hinder[ed] [her] ability to get a true assessment of any mental conditions [the Individual] may have”;
- The Individual did not acknowledge having bipolar disorder despite the opinion of the therapist and having been prescribed medication used to treat bipolar disorder by the PCP;

- The Individual represented in response to the LOI that the Site Psychologist had told him that she thought his medication was “unneeded” when she had not done so;
- The Individual was “dismissive of” and “minimized” the allegations made by Ms. X;
- The Individual displayed an unusual lack of animus towards Ms. X in light of his claims that she made false accusations against him that carried potential employment and criminal consequences;
- The Individual considered Ms. X responsible for the dissolution of his marriage and did not accept personal responsibility for his role in the extra-marital affair.

Ex. 8 at 35–38. The DOE Psychologist further opined that the aforementioned information showed that the Individual:

has a pattern of minimizing his problems, dismissing methods and recommendations that identify his problems, and misrepresenting information in order to portray himself in a positive light and avoid negative appraisal and consequences. His poor judgment, lack of insight, and inability to see and own his flaws makes him vulnerable to interpersonal turmoil and repeating mistakes, never learning from his experience in order to make different, healthier decisions for himself.

*Id.* at 38. The DOE Psychologist concluded that the Individual’s prognosis was “guarded given that this level of defensiveness and impression management makes it difficult for him to learn from his experiences and make the changes necessary to improve his symptoms and functioning.” *Id.* at 39.

In early August 2024, the Individual began weaning off of his medication under the supervision of the PCP. Tr. at 64; Ex. B at 13. The Individual also received treatment for sleep apnea, which resulted in his sleep improving. Tr. at 65; Ex. B at 13. According to the Individual, discontinuing the medication and having his sleep apnea treated made him feel “back to [his] normal self.” Tr. at 64.

By letter dated November 8, 2024, the PCP indicated that the Individual had “tapered [] off of his medication” and “continues to do well.” Ex. B at 13. According to the PCP, the Individual displayed “no evidence of ongoing mood disorder” as of the date of the letter. *Id.* The PCP opined that the Individual’s “need for medication previously was in large part related to external factors and stressors.” *Id.*

In November 2024, the Individual met with the Individual’s Psychologist for a psychological assessment. Ex. A at 2. As part of the assessment, the Individual’s Psychologist conducted a clinical interview of the Individual, reviewed records including the Report, and administered several psychological tests to the Individual. *Id.* at 3. All of the results of the psychological tests

were within normal ranges. Tr. at 139. The Individual's Psychologist issued a written report of the assessment in which he concluded that the Individual "is unlikely to have a mental disorder, and [] specifically does not have bipolar disorder." Ex. A at 5. The Individual's Psychologist further opined that the Individual's "difficulty" in discontinuing the medication he was prescribed was not indicative of the existence of bipolar disorder. *Id.*; *see also* Tr. at 156 (testifying at the hearing that the Individual's irritability when attempting to wean himself off of his medication was likely a symptom of withdrawing from the medication).

Following the psychological assessment, the Individual began meeting with the Individual's Psychologist on a weekly basis for psychotherapy. Ex. A at 2; Tr. at 130. During the Individual's weekly meetings with the Individual's Psychologist, the Individual acknowledged that his marital "infidelity was inexcusable." Ex. A at 4. The Individual indicated that he had pursued the affair because he felt "excluded" as a result of his mother-in-law and father-in-law being extremely involved in his wife and children's lives and "constantly" in the family home. *Id.* The Individual told the Individual's Psychologist that he intended to reconcile with his ex-wife and that she had agreed to consider participating in couples counseling. *Id.*

In December 2024, the Individual began meeting with the Individual's Counselor approximately once every two weeks. Tr. at 12. The Individual's Counselor diagnosed the Individual with an adjustment disorder stemming from stress related to his employment and the adjudication of his eligibility for access authorization. *Id.* at 26, 40. The Individual's Counselor has assisted the Individual with "processing feelings and addressing coping skills and tools . . . ." *Id.* at 15. The Individual's Counselor opined at the hearing that, although he had not assessed the Individual for bipolar disorder, the Individual had not displayed indicia of bipolar disorder or any other condition that could impair his judgment, stability, reliability, or trustworthiness in their sessions. *Id.* at 14, 17, 21–22, 40. The Individual's Counselor further opined that the Individual was not in need of any future treatment. *Id.* at 18.

The Individual testified that he was responsible for the dissolution of his marriage and that he regretted his marital infidelity. *Id.* at 56. The Individual recognized that he had struggled to communicate his feelings to his wife during their marriage and that he began his relationship with Ms. X because he felt that he "didn't have anyone to talk to." *Id.* at 57. The Individual indicated that, through his counseling with the Individual's Counselor and sessions with the Individual's Psychologist, he has improved his communication skills and better understands the importance of "talk[ing] through [] and understand[ing]" issues in relationships. *Id.* at 73–75. He indicated that he had no intention to rekindle a relationship with Ms. X and that he hoped to one day reconcile with his ex-wife. *Id.* at 75, 102.

As of the date of the hearing, the Individual felt "rejuvenated" and was not prescribed any medication. *Id.* at 66. He testified that the Site Psychologist had told him that she did not believe that he was properly diagnosed with bipolar disorder and that he had intended to communicate this information to the DOE Psychologist when he told her that the Site Psychologist did not believe that he needed his medication. *Id.* at 89–90. The Individual also indicated that he may have presented to the DOE Psychologist as defensive due to his communication style and tendency to provide what he considered essential facts in response to questions rather than answering at length. *Id.* at 122; *see also id.* at 149 (testimony of the Individual's Psychologist that the Individual had

told him that he “wasn’t used to talking” because “he’s a man” and that the Individual did not perceive open communication as consistent with this role). The Individual testified that this communication style had led to misunderstandings in his personal life as well and that he believed his counseling had improved his communication skills. *Id.* at 123–26.

The Individual’s Psychologist testified that he had diagnosed the Individual with adjustment disorder with depression and that the Individual did not have any emotional, mental, or personality condition that could impair his judgment, stability, reliability, or trustworthiness.<sup>4</sup> *Id.* at 131, 133. He opined that the Individual did not have bipolar disorder and was “not well served” by the opinion of the therapist that he had bipolar disorder, a condition for which the therapist lacked credentials to prescribe medication and may not have had the ability to accurately diagnose, or the decision of the PCP to start the Individual on medication for bipolar disorder without a “better evaluation” to confirm the diagnosis. *Id.* He further opined that the Individual had developed insight into his negative behaviors and that he did not have a mental or personality condition that could impair his judgment, stability, reliability, or trustworthiness. *Id.* at 133, 136. Specifically, he indicated that the Individual now appeared to recognize that he had engaged in an affair because he lacked the coping skills to manage feelings of frustration and resentment over his perceived exclusion from his family, had learned to step out of his perceived role and was better able to constructively communicate, and accepted responsibility for his mistakes. *Id.* at 134, 136, 140.

The DOE Psychologist testified that, after observing the entire hearing, she no longer believed that the Individual had any psychological condition that could impair his judgment, stability, reliability, or trustworthiness. *Id.* at 164–65. She further testified that what she previously deemed defensiveness in the Individual’s responses during the clinical interview she had reinterpreted as “unintentional,” and reflective of the Individual’s “simplistic approach” to answering questions and misunderstanding of her questions. *Id.* at 161. She indicated that she now perceived the Individual to be “cooperative” and attempting to provide information “to the best of his ability.” *Id.* at 162.

## **V. ANALYSIS**

### **Guideline I**

Conditions that could mitigate security concerns under Guideline I 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 amendable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

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<sup>4</sup> The Individual’s Psychologist explained in his testimony that adjustment disorder is “a mild diagnosis” that “technically means that someone has run into some problem in their life and this problem will probably resolve in like six months,” possibly without any intervention. *Tr.* at 144.



- (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.

In her testimony, the DOE Psychologist indicated that she no longer believed that the Individual had an emotional, mental, or personality condition or that could impair his judgment, stability, reliability, or trustworthiness. Moreover, based on the information she learned at the hearing, she reinterpreted the information that previously led her to conclude that the Individual had such a condition. In light of this reappraisal of the facts by the DOE Psychologist, it appears that the concerns alleged in the SSC no longer exist.

Whether or not the security concerns alleged in the SSC remain valid, the DOE Psychologist's opinion, in conjunction with the opinion of the Individual's Psychologist, amply demonstrates that there is not a current problem. Thus, the fifth mitigating condition is applicable. *Id.* at ¶ 29(e). If the condition cited in the Report ever impaired the Individual's judgment, stability, reliability, or trustworthiness, the fourth mitigating condition would also apply as both the DOE Psychologist and the Individual's Psychologist agree that the Individual has resolved those concerns and shows no signs of emotional instability. *Id.* at ¶ 29(d).

For the aforementioned reasons, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline I.

## VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guideline I of the Adjudicative Guidelines. After considering all the relevant information, 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 has brought forth sufficient evidence to resolve the security concerns. Accordingly, I have determined that the Individual's access authorization should be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick  
Administrative Judge  
Office of Hearings and Appeals