*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.

United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Personnel Security Hearing	)		
	)		
Filing Date: August 12, 2026	)	Case No.:	PSH-26-0163
	)		
	)		

Issued: October 23, 2026

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."[1] As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

I. BACKGROUND

The Individual was granted a security clearance by the Central Intelligence Agency (CIA) in 2021. Exhibit (Ex.) 4 at 1. The Individual was first granted DOE access authorization in 2025 in connection with his employment by a DOE contractor. Transcript of Hearing, OHA Case No. PSH-26-0163 (Tr.) at 7; Ex. 5 at 1. On January 1, 2026, DOE received notification through the Continuous Evaluation Program that the Individual's security clearance was revoked by the CIA. *See* Ex. 3 (summarizing information received concerning the clearance revocation). The local security office (LSO) sent the Individual a letter of interrogatory (LOI) to gather more information, which the Individual responded to on March 24, 2026. Ex. 4 at 1.

In his response to the LOI, the Individual reported that the Statement of Reasons (SOR) containing the basis for the CIA's revocation of his security clearance contained information regarding sexual behavior that the Individual disclosed during a polygraph interview. *Id.* at 1–2. The Individual paid for sexual intercourse on four separate occasions with individuals in Panama in 2021 and 2022 and

[1] The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

in Costa Rica in 2025. *Id.* at 1. In 2023, the Individual went to a massage parlor in the United States where an employee manually stimulated his genitalia with her hands. *Id.* at 2. In 2024, the Individual went to a different massage parlor in the United States where he had sexual intercourse with an employee. *Id.*

The LSO 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 1–3. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines B, D, E, and J of the Adjudicative Guidelines. *Id.* at 4–5.

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 five exhibits (Ex. 1–5). The Individual submitted nine exhibits (Ex. A–I).[2] The Individual testified on his own behalf and offered the testimony of his brother, a personal friend, and a professional colleague. Tr. at 6, 46, 56, 63. The LSO did not offer any witnesses.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as the first basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 4–5. "Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines ¶ 15. The SSC cited the Individual's admission to having paid for sexual intercourse on four occasions in Costa Rica and Panama and to having engaged in sexual conduct with masseuses in massage parlors.[3] Ex. 1 at 4–5. The LSO's allegation that the Individual's sexual conduct created a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group justifies its invocation of Guideline E. Adjudicative Guidelines ¶ 16(e)(1), (3).

[2] The Individual submitted Ex. A–D in one PDF submission and a supplement marked as Ex. E–I as a separate PDF. This Decision will cite the Individual's exhibits by reference to the exhibit letter and the pagination within the PDF in which the exhibit was submitted.

[3] The LSO also alleged that the Individual failed to "disclose the revocation of his CIA clearance to his employer, a DOE subcontractor." Ex. 1 at 4; *see also* Ex. 4 at 1 (containing the Individual's statement in response to the LOI that he did not notify his employer after learning of the revocation of his CIA clearance). Deliberately concealing information from an employer could potentially present a security concern under Guideline E. Adjudicative Guidelines ¶ 16(b). However, the LSO has not alleged any facts to support the conclusion that the Individual was required to report the revocation of a security clearance by the CIA to his DOE contractor employer. I also note that DOE Order 472.2A lists occurrences persons granted DOE access authorization are required to disclose within a specified period of time; loss of a clearance granted by another agency is not an enumerated event that must be disclosed. DOE O. 472.2A at Att. 5. Considering that the LSO has alleged no facts to support that the Individual was required to disclose the revocation of his CIA security clearance to his DOE contractor employer, and that the Individual was not required to disclose the event to the LSO, I find that this allegation by the LSO does not present a security concern under Guideline E.

The LSO cited Guideline J (Criminal Conduct) of the Adjudicative Guidelines as another basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 4–5. "Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations." Adjudicative Guidelines ¶ 30. The SSC cited the Individual's sexual conduct with masseuses in the United States. Ex. 1 at 4–5. The LSO's citation to the Individual's sexual conduct under circumstances that give rise to the inference that the Individual solicited prostitution and thus engaged in criminal conduct "regardless of whether [he] was formally charged" justifies its invocation of Guideline J. Adjudicative Guidelines ¶ 31(b).

The LSO cited Guideline D (Sexual Behavior) of the Adjudicative Guidelines as another basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 4–5. "Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress" may present a security concern under Guideline D. Adjudicative Guidelines ¶ 12. The LSO cited the Individual's admission to having paid for sexual intercourse on four occasions in Panama and Costa Rica and his admission to having engaged in sexual conduct with masseuses in the United States. Ex. 1 at 4–5. The LSO's allegations that the Individual's sexual conduct was of a criminal nature or may cause the Individual to be vulnerable to coercion, exploitation, or duress justify its invocation of Guideline D. Adjudicative Guidelines ¶ 13(a), (c).

The LSO cited Guideline B (Foreign Influence) of the Adjudicative Guidelines as the final basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 4–5. "Foreign contacts and interests . . . are a national security concern if . . . they create circumstances in which the individual may be . . . made vulnerable to pressure or coercion by any foreign interest." Adjudicative Guidelines ¶ 6. The LSO cited the Individual's admission to paying for sexual intercourse in Panama and Costa Rica. Ex. 1 at 4–5. The LSO's allegations that the Individual engaged in foreign contacts and conduct that may make him vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country justify its invocation of Guideline B. Adjudicative Guidelines ¶ 7(a), (i).

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" 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

A. Individual's Professional Background

The Individual has nearly twenty years of professional experience in national security, including in positions of leadership. *See* Ex. C at 27. The Individual started working in the national security field in 2008 as a background investigator vetting individuals seeking security clearances. Tr. at 7. The Individual serves on numerous professional committees and boards related to national security. Ex. C at 29. He has held a Department of War security clearance since approximately 2008. Tr. at 23. In 2016, the Individual started a part-time business providing security consulting to different companies. *Id.* at 9. The Individual wanted to obtain a CIA security clearance for personal and professional reasons because the companies he wanted to work with had contracts with the CIA. Ex. 4 at 1. In 2021, the Individual was granted a clearance by the CIA. *Id.* In 2022, the Individual began the process of seeking an additional security clearance with the CIA which required completion of a Full Scope Polygraph (FSP). *Id.*

In June 2025, the Individual began his employment with his current employer, a DOE contractor, which does not require the Individual to have a CIA security clearance. Ex. C at 27; Tr. at 9. He was granted a DOE security clearance in September 2025. Ex. 5 at 2. The Individual continued the CIA security clearance process because it had been a years-long process that the Individual had undertaken prior to his current employment. Ex. 4 at 1. In July 2025, the Individual completed the FSP for his CIA security clearance during which he revealed the sexual conduct forming the basis for the LSO's allegations. *Id.*

In January 2026, the Individual was notified that his CIA security clearance was revoked and that he would receive a SOR within thirty days. *Id.* The Individual received the SOR in February 2026, which contained information regarding sexual conduct the Individual disclosed during the FSP. *Id.* The Individual shredded the document and "decided mentally to move on." *Id.* He did not inform his employer of the revocation. *Id.*

B. Individual's Sexual Conduct

During the FSP, the Individual was asked whether there was anything in his background that he was not proud of or ashamed of that could cause potential problems with his security clearance. Tr. at 14. The Individual disclosed that he paid for sexual intercourse on four separate occasions with individuals in Panama in 2021 and 2022 and in Costa Rica in 2025; that he went to a massage parlor in the United States where an employee manually stimulated his genitalia with her hands in 2023; and that he went to a different massage parlor in the United States where he had sexual intercourse with an employee in 2024. *Id.*

The Individual testified at the hearing that one of the trips to Panama was for his 40th birthday party and the other three trips to Panama and Costa Rica respectively were for friends' bachelor parties. *Id.* at 15. There were around eight to twelve people on the trips with the Individual, some of whom were friends of the Individual and some that were just acquaintances. *Id.* at 39–40. The sexual encounters were "thirty minutes to an hour" and "individuals would bring ladies over [to where they were staying] . . . [they] would have a conversation[,] [a]nd then the acts would occur and then payment was made and that was it." *Id.* at 17. The last incident occurred in May 2025. *Id.* at 42. The Individual did not know the names of any of the women, but some of the women knew his name or an alias he provided. *Id.* However, the Individual did not provide his contact information or collect contact information from any of the women. *Id.* When asked why he engaged in the sexual conduct given he is married, the Individual testified that he was "probably a victim of circumstance" because "it was a bachelor party . . . with a bunch of friends . . . [and] it was a one-time occurrence." *Id.* at 16. Further, the Individual stated that he was going through marital challenges at home. *Id.* at 16, 43.

When the LSO learned of the CIA's revocation of the Individual's security clearance, it sent him the LOI to gather more information, which he responded to on March 24, 2026. Ex. 4 at 1–3. In his response, the Individual stated that he did not report the revocation or underlying information regarding his sexual conduct to his employer because it "was not criminal and [he] had not been arrested, charged, or prosecuted for any crime" and "[i]n [his] opinion, the items in the SOR did not meet any SEAD 3[4] or SEAD 4 requirement." *Id.* at 1. Regarding the sexual conduct in Panama and Costa Rica, the Individual stated that "the exchange of money for sexual intercourse [in those countries] is not illegal so [he] did not commit a crime, and [he] never suspected [he] was doing so." *Id.* At the hearing, the Individual testified that he became aware of the legal status of his activities through individuals he attended the trips with. Tr. at 31. The Individual previously stated that he would not have engaged in the sexual conduct "[i]f [he] ever thought [he] would be committing a crime . . . ." Ex. 4 at 1.

Regarding the sexual conduct in the United States, the Individual stated that he visited the massage parlors with his brother when the two of them were traveling to attend football games in a different state, and he had the full intention of only receiving a massage. *Id.* at 2; Tr. at 18. The Individual reported that in 2023 the woman performing the massage asked the Individual at the end of his massage if he wanted her to manually stimulate his genitalia with her hands. Ex. 4 at 2. The Individual claimed that he was "shocked but then agreed." *Id.* At the hearing, the Individual testified that he thought about walking out but that "obviously, [he] didn't" and that he "regret[ted] that decision." Tr. at 19. He further testified that the woman did not ask for any additional money after performing the sexual act and that he only paid approximately $80 to $100 for the massage. *Id.* at 19, 34. Immediately afterwards, the Individual told his brother about what happened and his brother told him it was "up to them [the masseuses] what they want to do, but it does happen." Ex. 4 at 2. The Individual claimed that his brother told him that in that state, sex acts were not illegal

[4] "SEAD" stands for Security Executive Agent Directive. SEAD-3 and SEAD-4 establish reporting criteria for individuals who hold security clearances and adjudicative criteria for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. *See Reporting Requirements for Personnel with Access to Classified Information or Who Hold a Sensitive Position* (June 12, 2017) (SEAD-3); *see also* Adjudicative Guidelines (SEAD-4).

if you do not solicit them. *Id.* The Individual's brother testified that he did tell the Individual that, but that it was "just how [he] felt about it" and he had "no legal standing or anything that [he] had looked up." Tr. at 53. The Individual did not look up any information to confirm his belief that the conduct was legal. *Id.* at 33. The Individual testified at the hearing that he did not feel that the conduct was a crime because "[he] wasn't arrested or charged with a crime and [he] didn't solicit the encounter." *Id.* at 20. However, his understanding now is that the sexual acts "could be considered as criminal acts" but that he "did not request those actions" and that he "did not believe [he] was doing anything wrong." *Id.* at 32.

In March 2024, the Individual and his brother went to another massage parlor while traveling. *Id.* The Individual claimed that the masseuse proposed sexual intercourse at the end of his massage and he agreed. *Id.* Upon receiving the LOI, the Individual "conduct[ed] some research on what occurred" and "realized that what [he] had done could be considered illegal." *Id.* He admitted that he "exhibited extremely poor judgment . . . ." *Id.*

C. Individual's Mitigation Efforts

The Individual testified that he and his wife began marriage counseling at an unspecified point of time. Tr. at 21–22. Subsequent to marriage counseling, in July 2026, the Individual started seeing a licensed psychologist specializing in anger and sexual addiction for individual therapy sessions. Ex. E at 4; Tr. at 38–39. By the end of September 2026, the Individual had attended six sessions. Ex. E at 4. According to documentation provided by the psychologist, the Individual "was open and forthcoming about his prior behaviors" and "was able to identify feelings of frustration in his marital homelife that helped to prompt him to engage in those inappropriate behaviors." *Id.* Further, the psychologist indicated that the Individual's behavior "was influenced by peers who had also engaged in similar acts in similar circumstances." *Id.* The psychologist stated that the Individual "has since learned better means of processing and coping with his emotions" and "expressed an increased desire to deal more appropriately with the various moderate stresses that occur in his life . . . ." *Id.* The Individual testified that his individual therapy sessions have allowed him to express his feelings about why he would engage in the type of behaviors that he previously engaged in and to find alternatives in addressing the potential issues. Tr. at 22. According to the psychologist, the Individual's prognosis is positive based on the information that the Individual had provided. Ex. E at 4. The Individual stated that he had plans to continue therapy with the psychologist, but did not elaborate on what those plans were. Tr. at 22.

The Individual testified that he told his wife about the sexual conduct "within the last year," that he told his supervisor about it in March 2026, and that he told his parents about it in April 2026. *Id.* at 35–36. He also testified that he is a man of faith and that he has harbored concerns that the sexual conduct could be used to affect his standing in his faith-based community. *Id.* at 41–42. However, he stated that "those instances were all one-time occurrences and they were more in a fashion where it was an opportunity, . . . like a bachelor party." *Id.* at 43. The Individual submitted documentation reflecting his service to the larger community dating back to 2018. *See generally* Ex. G at 11–34. The Individual serves on a committee for his former high school which provides students with mentorship by assisting with goal setting, study skills, college search, mock interviews, decision making, and service. *Id.* at 18–19. The Individual's brother testified at the

hearing that the Individual is being primed to become a board member for their former high school's Board of Directors. Tr. at 49.

When asked how the Individual will avoid engaging in problematic sexual conduct in the future, the Individual stated that he will continue counseling with his wife and not put himself "in situations where [he] could be subjected to that sort of behavior." *Id.* at 43–44. The Individual testified that he has been to massage parlors "a few times" since 2024 but that "nothing has happened." *Id.* at 38.

V. ANALYSIS

A. Guideline E

Conditions that could mitigate security concerns under Guideline E include:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines ¶ 17.

The first two mitigating conditions are inapplicable because the Individual is not alleged to have omitted, concealed, or falsified information. *Id.* ¶ 17(a)–(b).

The Individual's conduct was not minor, particularly in light of his professional background and maturity at the time of the conduct. As someone who has been in the national security profession for nearly twenty years and is highly respected by other professionals, the Individual's sexual conduct while holding a security clearance casts substantial doubt on his good judgment. *See* 10 C.F.R. § 710.7(c) (requiring consideration of, among other things, "the circumstances surrounding the conduct" and the "age and maturity of the individual at the time of the conduct"). The Individual's sexual conduct was recurrent on six separate occasions over the course of five years, most recently in 2025, and thus was not infrequent or so long ago as to mitigate the security concerns. The Individual's trips for his birthday, friends' bachelor parties, and football do not present such unique circumstances that the conduct is unlikely to recur and does not cast doubt on the Individual's reliability, trustworthiness, or good judgment. While the Individual claimed that his marital issues were an underlying reason for his sexual conduct, he did not provide any insight into what those marital issues were, what he and his wife have discussed and learned in marital therapy, and how he will address marital issues in the future. Accordingly, I find the third mitigating condition inapplicable. *Id.* ¶ 17(c).

While the Individual acknowledged that he exhibited extremely poor judgment when engaging in sexual conduct in the United States, he did not fully accept responsibility for his international conduct. Instead, he viewed himself as having succumbed to peer pressure, cited his marital issues as a contributing factor, and claimed he was "a victim of circumstance." The Individual did obtain counseling both individually and maritally with his wife to change his behavior and alleviate marital stressors. While the Individual's marriage counseling may be beneficial to his relationship to his wife, it is not sufficient for me to conclude that the Individual's conduct is unlikely to recur considering that the Individual's decision to repeatedly utilize prostitutes reflected a lack of impulse control and judgment that goes well beyond relationship difficulties and is unlikely to have been addressed in marriage counseling. Further, the Individual has only attended six individual counseling sessions. While I credit the Individual with seeking individual and marital counseling and receiving a positive prognosis from his psychologist, I cannot conclude that his behavior is unlikely to recur. The Individual still has not accepted full responsibility for his sexual conduct, and he did not provide any information to support that he will not succumb to peer pressure other than a bare assertion that he no longer puts himself in situations where he could be subject to similar problematic sexual conduct. Therefore, the fourth mitigating condition is inapplicable. *Id.* ¶ 17(d).

I commend the Individual for seeking counseling to address his behavior, which is a positive step to reduce and eliminate his vulnerability. The Individual claims that he took additional positive steps to reduce or eliminate his vulnerability to exploitation, manipulation, or duress by informing his wife, supervisor, parents, and brother about the sexual conduct. The Individual corroborated his brother's knowledge by offering his brother as a witness. However, the Individual did not corroborate his wife's, supervisor's, and parents' knowledge and awareness of the sexual conduct. If they do not in fact know the details of the Individual's sexual conduct, there is still a potential for exploitation, manipulation, or duress. Moreover, besides the potential for manipulating the Individual by threatening to disclose his conduct to family members and colleagues, the

circumstances surrounding the conduct make the Individual more susceptible to manipulation than the average person considering his leadership role with his former high school and his involvement in a faith-based community. *See* 10 C.F.R. § 710.7(c). While the Individual is not required to publicly announce his misconduct to the world to mitigate the security concerns, there are too many obvious avenues by which the Individual could be manipulated by the threat of disclosure of his conduct to persons close to him in his personal, professional, and community life for me to ignore. Accordingly, the fifth mitigating condition is inapplicable. *Id.* ¶ 17(e).

The sixth mitigating condition is inapplicable because the Individual was the source of the information upon which the LSO relied. *Id.* ¶ 17(f). Lastly, the seventh mitigating condition is also inapplicable because the LSO did not allege that the Individual associated with persons involved in criminal activities. *Id.* ¶ 17(g).

For the aforementioned reasons, none of the mitigating conditions are applicable and the Individual has not resolved the security concerns asserted by the LSO under Guideline E.

B. Guideline J

Conditions that could mitigate security concerns under Guideline J include:

(a) so much time has elapsed since the behavior, or it has happened so infrequently or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(c) no reliable evidence to support that the individual committed the offense; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Id. ¶ 32.

It has been over two years since the Individual's most recent sexual conduct of a potentially criminal nature cited in the SSC, which last occurred in March 2024.[5] However, considering that the Individual repeatedly engaged in sexual conduct with masseuses under circumstances which might have been unlawful, and in light of the abovementioned considerations under 10 C.F.R. § 710.7(c), it did not happen so infrequently or under such unusual circumstances that it unlikely to recur and does not cast doubt on the Individual's current reliability, trustworthiness, or good judgment. Therefore, the first mitigating condition does not apply. *Id.* ¶ 32(a).

[5] Assuming the Individual's sexual conduct in Panama and Costa Rica was legal under the laws of those countries, as the LSO did in the SSC, the last potentially criminal sexual conduct which occurred in the United States was in March of 2024.

The Individual's psychologist indicated that the Individual's behavior was influenced by peers who had also engaged in similar acts in similar circumstances. To the extent that the Individual was pressured into committing the sexual conduct, the Individual did not indicate that those peers are no longer present in his life. The Individual's brother was with him during both trips to the massage parlors and the brother is still highly involved in the Individual's life as demonstrated by his testimony at the hearing. Accordingly, the second mitigating condition does not apply. *Id.* ¶ 32(b).

The Individual admits to the sexual conduct but denied the belief that his conduct was unlawful. On its face, it is obvious that engaging in sexual conduct with masseuses after an exchange of money in a state in which prostitution is unlawful creates the potential for criminal conduct. Moreover, the fact that the Individual engaged in the conduct repeatedly strongly suggests that the Individual affirmatively sought the sexual conduct. These circumstances provide at least some evidence of criminal conduct and, therefore, the third mitigating condition does not apply. *Id.* ¶ 32(c).

The Individual has demonstrated a good employment record and constructive community involvement. However, these things predated his sexual conduct. The Individual has maintained stable employment for over twenty years and operated his own consulting business for ten years, both of which predate the sexual conduct. Accordingly, his good employment record is not evidence of successful rehabilitation because it did not change before, during, or after his sexual conduct. The Individual's constructive community involvement also predates the sexual conduct. He was involved in the national security community and his faith-based community before the first instance of sexual conduct in 2021. Considering that the Individual was never arrested or charged with any crime, he has not had an opportunity to demonstrate the applicability of most of the remaining factors. For these reasons, there is no evidence of successful rehabilitation, and the fourth mitigating condition does not apply. *Id.* ¶ 32(d).

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

C. Guideline D

Conditions that could mitigate security concerns under Guideline D include:

(a) the behavior occurred prior to or during adolescence and there is no evidence of subsequent conduct of a similar nature;

(b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

(c) the behavior no longer serves as a basis for coercion, exploitation, or duress;

(d) the sexual behavior is strictly private, consensual, and discreet; and

(e) the individual has successfully completed an appropriate program of treatment, or is currently enrolled in one, has demonstrated ongoing and consistent compliance with the treatment plan, and/or has received a favorable prognosis from a qualified mental health professional indicating the behavior is readily controllable with treatment.

Id. ¶ 13.

The Individual's behavior occurred after adolescence; therefore, the first mitigating condition is inapplicable. *Id.* ¶ 13(a).

It has been over a year since the Individual's most recent concerning sexual conduct, which last occurred in May 2025. However, for reasons previously mentioned under Guideline E, it did not happen so infrequently or under such unusual circumstances that it is unlikely to recur and does not cast doubt on the Individual's current reliability, trustworthiness, or good judgment. Therefore, the second mitigating condition does not apply. *Id.* ¶ 13(b).

The Individual's sexual conduct could still serve as a basis for coercion, exploitation, or duress. The uncertainty as to the Individual's wife's, supervisor's, and parents' knowledge of the Individual's problematic sexual conduct raises concerns that there is the potential for familial influence. Additionally, the Individual's brother testified that the Individual is being primed for a position on his former high school's Board of Directors and the Individual remains involved in his faith-based community. The Individual testified that he has harbored concerns that his sexual conduct could affect his standing in the faith-based community and did not provide information to support a conclusion that his behavior would no longer serve as a basis for coercion, exploitation, or duress. Accordingly, the third mitigating condition does not apply. *Id.* ¶ 13(c).

At minimum, the Individual's sexual behavior in Panama and Costa Rica was neither strictly private nor discreet. The Individual was traveling with a group of people, including people he did not know well, who also engaged in similar sexual conduct. Regardless of whether or not the persons involved in providing the prostitutes, or the prostitutes themselves, could identify the Individual, many people were present on the trips who could identify the Individual and relate his participation in the sexual conduct. For the same reasons, it was not discreet. The fourth mitigating condition does not apply. *Id.* ¶ 13(d).

The Individual completed six individual counseling sessions with a psychologist, who gave the Individual a positive prognosis. The Individual indicated that he planned to continue individual counseling with the psychologist but did not provide any details such as frequency or duration. The Individual also did not present any information regarding what information he has disclosed to his psychologist, whether there is a treatment plan, what his goals are for treatment, and whether any pertinent behavioral changes have resulted from his six counseling sessions. A positive prognosis is insufficient considering the lack of demonstrated rehabilitation and the unresolved "potential for pressure, coercion, exploitation, or duress" which still exists. *See* 10 C.F.R.

§ 710.7(c). Accordingly, the fifth mitigation condition does not apply. Adjudicative Guidelines ¶ 13(e).

None of the mitigating conditions are applicable to the facts of this case. Accordingly, the Individual has not resolved the security concerns asserted by the LSO under Guideline D.

D. Guideline B

Conditions that could mitigate security concerns under Guideline B include:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the United States;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the agency head or designee;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

Id. ¶ 8.

The nature of the Individual's relationships with the women he had sexual intercourse with in Panama and Costa Rica were limited. The Individual did not exchange contact information with the women, some of the women did not know his real name, and the Individual did not interact with any woman more than one time. It is highly unlikely that the Individual will be placed in a position of having to choose between the interests of any of the women and the interests of the United States. Accordingly, the first mitigating condition applies. *Id.* ¶ 8(a).

The Individual's sense of loyalty or obligation to the women from Panama and Costa Rica is nonexistent and the Individual can be expected to resolve any conflict of interest in favor of the U.S. interest. Accordingly, there is no conflict of interest, and the second mitigating condition applies. *Id.* ¶ 8(b).

The Individual has not had any contact or communication with the women from Panama or Costa Rica beyond the individual occurrences of sexual intercourse. There is little likelihood that the Individual's contact or communication with the women could create a risk for foreign influence or exploitation. Therefore, the third mitigating condition applies. *Id.* ¶ 8(c).

The fourth, fifth, and sixth mitigating conditions are inapplicable. *Id.* ¶ 8(d)–(f). The Individual's foreign contacts and activities were not on U.S. Government business and were not approved by the agency head or designee. The Individual was not required to report his contact with the women from Panama and Costa Rica, and the Individual's interests were not related to foreign business, finances, or property.

Considering that three mitigating conditions are applicable, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline B.

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 E, Guideline J, Guideline D, and Guideline B 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 asserted by the LSO under Guideline B, but not those asserted by the LSO under Guidelines E, J, and D. Accordingly, I have determined that the Individual's access authorization should not 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