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

In the Matter of: Personnel Security Hearing)
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Filing Date: August 31, 2020) Case No.: PSH-20-0070
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Issued: November 13, 2020

Administrative Judge Decision

Steven Fine, Administrative Judge:

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

I. BACKGROUND

In May 2020, the Individual’s clearance was suspended due to derogatory information about the Individual concerning her alcohol use. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing her that she was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding her eligibility to continue holding a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), the Individual presented only her own testimony. The LSO presented the testimony of the DOE psychologist (the Psychologist) who had evaluated the Individual. *See* Transcript of Hearing, Case No. PSH-20-0070 (hereinafter cited as “Tr.”). The LSO submitted 17 exhibits, marked as DOE Exhibits 1 through 17 (hereinafter cited as “Ex.”). The Individual submitted seven exhibits, marked as Ind. Exs. 1 through 7.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

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

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. That information raised security concerns under Guidelines E, G, and J of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines).

Guideline E (Personal Conduct) provides that conduct exhibiting questionable judgment, lack of candor, or unwillingness to comply with rules and regulations, raises questions about an individual's reliability, trustworthiness and ability to protect classified information. The LSO alleges that the Individual intentionally provided false information to the Psychologist concerning her alcohol consumption. The LSO further alleges that she had a similar lack of candor in her responses to two Letters of Interrogatory (LOI) that the LSO issued to her after being informed of her alcohol-related arrests. Guideline E specifically states: "Any failure to provide truthful and candid answers during the security clearance process is of particular concern" and further provides that an individual's "refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination" "will normally result in an unfavorable . . . security clearance action. . ." Guideline E at ¶ 15(b). Accordingly, I find that the LSO's security concerns under Guideline E are adequately justified.

Guideline G (Alcohol Consumption) provides: "Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness." Guideline G at ¶ 21. Among the conditions cited in Guideline G that could raise a disqualifying security concern are: alcohol-related incidents, at or away from work, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder; habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder; an Alcohol Use Disorder diagnosis by a duly qualified medical or mental health professional; failure to follow treatment advice after diagnosis; and alcohol consumption that is not in accordance with treatment recommendations after a diagnosis of alcohol use disorder. Guideline G at ¶ 22. The LSO alleges that the Individual was arrested for Public Intoxication (PI) after an alcohol-related incident on a flight in 2019, arrested for Driving Under the Influence (DUI) in 2017, and diagnosed by a Psychiatrist with "Alcohol Abuse and Intoxication-Uncomplicated" in 2016. Ex. 9. The LSO further alleges that the Psychologist found evidence that the Individual used alcohol to the extent that it impaired her judgment, reliability, stability, and trustworthiness. Accordingly, the LSO's security concerns under Guideline G are justified.²

Guideline J (Criminal Conduct) provides that "[c]riminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability

² The LSO also alleges that the Individual had informed a psychologist who had evaluated her in 2017 that she "had past or current alcohol abuse dependency. . ." SSC at ¶ 6. However, the September 27, 2017, report of that psychologist's conclusions after evaluating the Individual on September 26, 2017, does not support this allegation. DOE Ex. 10 at 1. Instead, this report states, in pertinent part: "[The Individual] reports no past or current recreational drug use, and denies any past or current alcohol abuse, dependency, or treatment. Current alcohol consumption is described as 'social' and 'occasional,' and [the Individual] reports going several years without any alcohol use." Ex. 10 at 2.

or willingness to comply with laws, rules, and regulations.” Guideline J at ¶ 30. The conditions that could raise a security concern and may be disqualifying under Guideline J include: “evidence . . . of criminal conduct regardless of whether the individual was formally charged, prosecuted, or convicted;” and when an “individual is currently on parole or probation.” Guideline J at ¶ 31(b) and (c). The LSO alleges that the Individual was arrested and charged with PI after engaging in disruptive conduct on a domestic flight in 2019, and that the Individual was charged with DUI in 2017. Accordingly, the LSO’s security concerns under Guideline J are justified.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The entire process is a conscientious scrutiny of a number of variables known as the “whole person concept.” Adjudicative Guidelines ¶ 2(a). The protection of the national security is the paramount consideration. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), cert. denied, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting 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. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue. The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

The Individual was evaluated and treated by a psychiatrist (The Psychiatrist) from June 9, 2016, until September 16, 2016, for four mental health issues that are not at issue in the present case. Ex. 9 at 1. However, the medical records supplied by the Psychiatrist indicate that the Individual “admitted struggling with alcoholism.” DOE Ex. 9 at 2. These medical records further indicate that the Psychiatrist diagnosed the Individual with “Alcohol abuse with intoxication uncomplicated.” Ex. 9 at 3, 6.

On October 7, 2017, police arrested the Individual and charged her with DUI. DOE Ex. 4 at 1.

The LSO issued LOIs to the Individual requesting information concerning this arrest and the Individual’s alcohol use. On December 4, 2018, the Individual submitted her responses to this

LOI. DOE Ex. 5 at 1. Interrogatory No. 23 asked the Individual: “Has your use of alcohol created any problems in your life? If, so, please explain.” Despite her admission to the Psychiatrist that she had struggled with alcohol, she responded by stating: “No, except for October 7, 2017.”³ DOE Ex. 5 at 6.

On March 19, 2019, police arrested and charged the Individual with PI after an incident in which she engaged in disruptive conduct during a flight after consuming alcohol. DOE Ex. 3 at 4, 9-11. The Police Report for this arrest indicates that at least four individuals (including the Individual) reported that she had consumed alcohol prior to this incident. DOE Ex. 3 at 9-5.

The March 19, 2019, arrest for PI led the LSO to issue a second series of LOI to the Individual. The Individual responded to these LOIs on October 17, 2019. DOE Ex. 11 at 1. Interrogatory No. 1 asked the Individual: “Did you stop consuming alcohol or continue to consume alcohol after the first incident in 2017? If you continued to consume, describe your alcohol use since that time; include how much and how often you would typically drink, if you made any changes while on pain medication, and under what conditions you would drive after consuming alcohol.” DOE Ex. 11 at 1. The Individual responded by stating in pertinent part: “Yes, I have not consumed alcohol since the 2017 incident.” DOE Ex. 11 at 1. The Individual went on to attribute her behavior that led to the PI arrest to sleep deprivation and her prescription pain medication. DOE Ex. 11 at 1. She further noted: “My court case has been resolved as disorderly conduct, but makes no mention of alcohol use.” DOE Ex. at 1.

After the Individual’s PI arrest, the LSO requested that the Individual undergo a psychological evaluation. The Psychologist interviewed the Individual on December 6, 2019, and issued a report of his findings on December 12, 2019, in which, he opined that the Individual “uses alcohol to the extent that it impairs her judgement, reliability, stability, and trustworthiness.” DOE Ex. 7 at 3, 12-13. He further concluded that the Individual “is drinking significant amounts of alcohol which has repeatedly caused her major problems but do not meet the criteria for a DSM-5 alcohol diagnosis.” DOE Ex. 12 at 11. Noting that the Individual was not receiving treatment for her drinking, or her “impulsive, controlling psychological conditions,” the Psychologist recommended that the Individual abstain from alcohol for at least nine months, actively participate in Alcoholics Anonymous (AA) meetings for one year, attend an intensive outpatient program (IOP), and obtain individual counseling. DOE Ex. 7 at 13. The Psychologist also reported that the Individual had repeatedly provided him with false information minimizing her alcohol consumption during his December 6, 2019, interview of her. Ex. 7 at 7-9. For, example, during the interview, she had initially informed the Psychologist that she had not consumed any alcohol since October 2017. Ex. 7 at 7-8. However, when the Psychologist informed her that he was going to ask her to take a blood test that would detect her consumption of alcohol during the previous three weeks, she admitted consuming alcohol on the previous evening, and on a flight returning from Kentucky after Thanksgiving. Ex. 7 at 7-8.

The Individual began attending an Intensive Outpatient Program (IOP) for her alcohol issues on May 21, 2020. Ind. Ex. 6 at 1; Tr. at 52.

³ Interrogatory No. 22, asked: “Have you ever felt you may have an alcohol related problem or has anyone else expressed that concern to you? If so, please explain.” The Individual responded “no.” Ex. 5 at 6.

On July 7, 2020, while she was attending this IOP, police arrested⁴ and charged the Individual with her second DUI.⁵ DOE Ex. 16 at 1; Tr. at 51. Breath tests administered to the Individual by the arresting officer indicated that her blood alcohol level was .184 and .116, respectively. DOE Ex. 16 at 2.

On October 12, 2020, the Individual was discharged from her IOP, after successfully completing it. Ind. Ex. 6 at 1. Her discharge summary states:

[The Individual] initially struggled with abstinence as she faced family relationships and a brief lack of self care resulting in a DUI. [The Individual] accepted responsibility and moved forward to engage in the group process and regular attendance of 12-step meetings. [The Individual] obtained a sponsor and became a source of positive support for fellow group members. [The Individual] demonstrated the changes necessary to successfully complete Intensive Outpatient Treatment.

Ind. Ex. 6 at 1. The treatment summary further states that the Individual “had shown no evidence of intoxication or withdrawal.” Ind. Ex. 6 at 2. The treatment summary concludes by stating: “[The Individual’s prognosis is good contingent upon her continued participation in a 12-step program, individual therapy, and medication management.” Ind. Ex. 6 at 2.

On the night before the hearing, the Individual submitted a “Clinical Records Review” prepared by a non-treating-psychologist (the NTP) employed at the clinic at which the Individual has been receiving psychiatric and counseling services. The NTP conducted a review of the Individual’s clinical records at that clinic and summarized them in this document. Ind. Ex. 4 at 1.

The NTP states, in pertinent part:

[The Individual] appears to this reviewer to have been honest about alcohol problems while engaged in the treatment episode at [the] Clinic ending in July 2018. She was more likely than not minimizing the extent of her alcohol use during the interview with [the Psychologist]. Though other contributors may have been present, alcohol has more likely than not played a significant role in legal issues (i.e. DUI and Disorderly conduct). In 2020 she sought intensive treatment for alcohol use and has complied with treatment recommendations of her IOP and outpatient treatment team at [the] Clinic. She should continue to follow the recommendations of her treatment team.

Ind. Ex. 4 at 2. The NTP further concluded that “Records from treatment episode that began in 2020 at [the] Clinic indicate that she is no longer deceptive regarding alcohol use.” Ind. Ex. 4 at 2. The NTP concluded that:

⁴ This arrest occurred after the SSC was issued and approximately four months prior to the hearing.

⁵ The Individual testified at the hearing that she was sentenced for this DUI in October 2020. She testified that the court placed several conditions on her, including complete abstinence from alcohol, random medical screenings for alcohol use, and no possession or use of alcohol. Tr. at 54–55.

[The Individual] has been following a clinician driven treatment plan related to her alcohol use and psychiatric diagnoses since May 2020. It is reasonable to expect that if she continues to engage in treatment and/or support groups like AA she should be able to avoid any recurrence of alcohol related difficulty. Should concern regarding relapse persist, there are effective methods for assessing alcohol use, such as those employed during [the Psychologist's] evaluation.

Ind. Ex. 4 at 3.

The Hearing

The Individual testified on her own behalf at the hearing.⁶ She began her testimony by explaining that she had been injured in a severe automobile accident when she was sixteen. Tr. at 23. As a result, she has had to manage severe pain since this accident. Tr. at 23-28. This severe pain has often interfered with her ability to sleep. Tr. at 26. For most of her life, she abstained from alcohol use. Tr. at 28. However, she began to use alcohol in 2012 or 2013. Tr. at 28. At some point, she began to use alcohol as a sleep aid. Tr. at 29-30, 41-42.

Though counseling and AA, the Individual recognizes that she has an alcohol problem, and that she needs to abstain from using alcohol. Tr. at 45, 57, 65-66, 86. The Individual testified that she last consumed alcohol on July 7, 2020. Tr. at 75, 88. The Individual testified that she began her IOP in May 2020, and had recently completed it. Tr. at 52, 88. The Individual feels that, since her pain is under better control, she is now less likely to use alcohol. Tr. at 42-45. She admitted that she had minimized her alcohol use to the Psychologist during her evaluation, but did so because she did not recognize that she had an alcohol problem at that time. Tr. at 70-71. She acknowledged that she continued drinking after attempting to stop when she was evaluated by the Psychologist. Tr. at 77. She is now attending AA meetings three to four times a week. Tr. at 55, 57. She testified that she can be trusted to provide accurate information about her alcohol use and treatment, because she now recognizes that she has an alcohol problem. Tr. at 76.

The Individual testified about the incident that led to her PI arrest. She claimed that she had endured an eleven hour flight under particularly difficult circumstances. Tr. at 50. By the time of the incident, she had not slept for 72 hours. Tr. at 50. She was in pain, so she took a prescription medication, Tramadol.⁷ Tr. at 50. The Individual testified that she was ashamed of her conduct during this incident. Tr. at 50.

The Individual described her July 7, 2020, DUI arrest as devastating. Tr. at 58. The Individual testified that she had pled guilty to the July 7, 2020, DUI and has been sentenced to four months of probation. Tr. at 54. Per the court order, she is prohibited from possessing or using alcohol, and is subject to random urinalysis tests for alcohol. Tr. at 55.

During cross-examination, the Individual was asked why she had denied consuming alcohol since the October 7, 2017, incident in her October 17, 2019, answers to the second LOI. Tr. at 80. The

⁶ The Individual's attorney asked for judicial notice of how the Individual's anxiety ramped up during her testimony as an example of her condition. Tr. at 56, 61. At times, she appeared unable to focus on the questions and, at times, her attorney redirected her back to the topic at hand. Tr. at 69, 72-73.

⁷ Tramadol is a painkiller similar to opioid analgesics.

Individual responded by stating “I guess I was looking at it as overuse, and I – I did not intentionally try to mislead anybody, but I see what you mean. I take responsibility.” Tr. at 80-81. When asked if that LOI response was accurate or inaccurate, the Individual replied it “was an incomplete response.” Tr. at 81. During re-direct examination, the Individual testified that when she had denied consuming alcohol in response to questions from the LSO, she had interpreted the question as asking whether she had *abused* alcohol during that time, rather than if she had consumed alcohol. Tr. at 96.

During cross-examination by the DOE Counsel, the Individual also was asked why she had not initially informed the Psychologist about consuming alcohol on the flight home from Kentucky after Thanksgiving 2019. The Individual initially responded by stating “I don’t recall that at all.” Tr. at 77. She then continued to state: “Thanksgiving I was in Kentucky with my daughters, and I didn’t drink at all when I was in Kentucky with my daughters, and I didn’t drink on the flight back with my daughters and Halloween.” Tr. at 77-78. The DOE Counsel directed the Individual’s attention to the Psychologist’s Report, which indicated that she had admitted that she had consumed alcohol during the flight home from Kentucky, and then asked her if she had used alcohol on the plane back from Kentucky. Tr. at 78-9. The Individual responded by stating: “Sir, I don’t recall, but I -- you know, I could have, yes. I am saying that I didn’t drink over Thanksgiving. I thought that was the question. I’m sorry, I apologize. I could have.” Tr. at 78-79. She then admitted that she had consumed alcohol on that flight. Tr. at 79.

The Psychologist testified that, while he did not diagnose the Individual with a formal DSM-5 alcohol use disorder after her 2019 evaluation, he would give such a diagnosis as of the hearing because the Individual had been unable to abstain from alcohol, despite alcohol causing severe adversity in her life. Tr. at 106–07, 115. He testified that the Individual told him she had not consumed alcohol since her 2017 DUI and that she had denied consuming any alcohol on the flight before the airline incident. Tr. at 110–11. He testified that after telling her she would be tested for alcohol, she admitted to drinking the night before the evaluation, drinking with friends a few days prior, and drinking on a flight home from Thanksgiving travels about a week prior. Tr. at 111–12.

Due to the Individual’s lack of candor during her evaluation and her difficulty giving concrete answers about her alcohol use during the hearing, the Psychologist stated that he would have liked to see nine months of abstinence backed up by laboratory testing in order to consider the Individual rehabilitated. Tr. at 118. He did not believe that the Individual’s stated period of abstinence and course of treatment up to the hearing date was sufficient to demonstrate rehabilitation. Tr. at 117. He testified that the Individual’s multiple relapses indicated that she was not in control of her alcohol consumption. Tr. at 118, 120. The Psychologist further testified that the Individual’s IOP and amount of AA attendance were less than he would have recommended for the Individual’s treatment, and that he was unable to evaluate the quality of the Individual’s IOP. Tr. at 115–17.

V. ANALYSIS

Guideline E

Guideline E provides that the following conditions (in relevant part) may mitigate Personal Conduct security concerns: (1) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; (2) 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; and (3) 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. Adjudicative Guidelines at ¶ 17(a), (c), (d).

During the hearing, the Individual continued to exhibit a lack of candor. Whether this lack of candor was willful or a product of confusion and anxiety, it underscores the LSO's concerns, rather than mitigating them. Regardless of her intent, the Individual's word cannot be taken at face value, casting doubt on her fitness to hold a clearance. As doubt must be resolved in favor of the national security, I cannot find that the LSO's Guideline E concerns are mitigated.

Because the Individual failed to make prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts, it is clear that the conditions set forth in ¶ 17(a) are not present. The Individual's lack of candor has continued through several steps of the present proceeding, including her answers to LOIs, her psychological interview, and at her hearing. Accordingly, it is clear that the conditions set forth in ¶ 17(c) are not present. The Individual has somewhat acknowledged the behavior, has obtained counseling to change the behavior, and has taken other positive steps (including utilizing more effective pain mitigation strategies and obtaining treatment for her alcohol disorder) to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior; however, the continuation of her lack of candor during the hearing raises the expectation that such behavior is likely to recur. Accordingly, it is clear that the conditions set forth in ¶ 17(d) are not present.

For these reasons, I find that the Individual has not resolved the security concerns raised by the LSO under Guideline E.

Guideline G

Guideline G provides that security concerns arising from alcohol consumption can be mitigated when "(a) the individual's alcohol use was so infrequent or so long ago that it is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, or judgment; (b) the individual acknowledges his pattern of alcohol abuse, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence; (c) the individual has no history of relapse and is making satisfactory progress in treatment or counseling; or (d) the individual has successfully completed a treatment program and has established pattern of modified consumption or abstinence." Adjudicative Guidelines at ¶ 23(a), (b), (c), (d).

By her own admission, the Individual has only abstained from alcohol use for four months. She has been able to abstain for short periods before, but has relapsed several times. Even after her alcohol use put her career in jeopardy, she chose to consume alcohol and to drive under the influence of alcohol. Even with the possibility of losing her job looming on the horizon, the Individual was unable to abstain from alcohol for more than a few months at most. Though she may indeed remain

abstinent this time and follow through with her treatment goals, as of the hearing date, there remains significant doubt about her ability to control her drinking.

Since the Individual's problematic alcohol use has continued until as recently as July 7, 2020, she has not shown that it occurred so long ago that it is unlikely to recur and does not cast doubt on her current reliability, trustworthiness, or judgment. According, it is clear that that the conditions set forth in ¶ 23(b) are not present. While the Individual acknowledges her pattern of alcohol abuse, and has provided evidence of actions taken to overcome this problem (attending the IOP, counseling, and AA), she has not demonstrated a clear and established pattern of modified consumption or abstinence, since she had only been abstaining from alcohol use for a period of four months at the time of the hearing. According, it is clear that that the conditions set forth in ¶ 23(b) are not present. The Individual is apparently making satisfactory progress in treatment or counseling; however, she has a significant history of repeated relapses. Accordingly, it is clear that the conditions set forth in ¶ 23(c) are not present. While the Individual has successfully completed a treatment program and has, according the her counselor and the NTP, established a pattern of abstinence, the Individual has only abstained from alcohol use for a maximum of four months, five months short of the Psychologist's treatment recommendation of nine months. According, it is clear that that the conditions set forth in ¶ 23(d) are not present.

For these reasons, I find that the security concerns raised by the LSO under Guideline G have not been mitigated and remain unresolved.

Guideline J

The Individual has a significant history of three alcohol-related arrests during the past four years.⁸

Until the Individual's alcohol use is under control, she cannot be considered rehabilitated from her criminal behavior because the two issues are inextricably linked. Accordingly, at this time, I find that the security concerns raised by the LSO under Guideline J have not been mitigated and therefore remain unresolved.

⁸ Guideline J provides that security concerns arising from criminal conduct can be mitigated when "(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; (b) the individual was pressured or coerced into committing the act and those pressures are not prescribed, the pressures are no longer a part of the individual's life, and the abuse has since ended; (c) there is no reliable evidence to support that the individual committed the offense; (d) and there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement." Adjudicative Guidelines at ¶ 32(a),(b),(c),(d).

VI. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual's eligibility for a security clearance under Guidelines E, G, and J of the Adjudicative Guidelines. I further find that the Individual has not succeeded in fully resolving those concerns. Therefore, I cannot conclude that restoring DOE access authorization to the Individual "will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should not restore access authorization to the Individual at this time.

The parties may seek review of this Decision by an Appeal Panel, under the regulation set forth at 10 C.F.R. § 710.28.

Steven Fine
Administrative Judge
Office of Hearings and Appeals