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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:	December 11, 2013	)	Case No.: PSH-13-0133
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Issued : March 20, 2014

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**Administrative Judge's Decision**

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Janet R. H. Fishman, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) to hold an access authorization<sup>1/</sup> under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, “General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.” As fully discussed below, after carefully considering the record before me in light of the relevant regulations and Adjudicative Guidelines, I have determined that the Individual’s access authorization should be restored.

**I. Background**

The Individual is employed as a contractor by the DOE in a position that requires him to hold a security clearance. During a reinvestigation for his security clearance, the Local Security Office (LSO) conducted a Personnel Security Interview (PSI) with the Individual in June 2013 (June 2013 PSI). After the PSI, the LSO referred him for a psychological evaluation by a DOE psychologist, which occurred in August 2013. The DOE psychologist diagnosed the Individual with Opioid Use Disorder of moderate severity. The DOE psychologist concluded that this diagnosis was an illness or mental condition which causes or may cause a significant defect in judgment and reliability.

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<sup>1/</sup> Access authorization is defined 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). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

In October 2013, the LSO sent a letter (Notification Letter) to the Individual advising him that it possessed reliable information that created a substantial doubt regarding his eligibility to hold a security clearance. In an attachment to the Notification Letter, the LSO explained that the derogatory information fell within the purview of three potentially disqualifying criteria set forth in the security regulations at 10 C.F.R. § 710.8, subsections (h), (k), and (l) (hereinafter referred to as Criterion H, Criterion K, and Criterion L).<sup>2/</sup>

Upon his receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations by requesting an administrative review hearing. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge<sup>3/</sup> in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the LSO presented one witness; the Individual presented her own testimony and the testimony of four witnesses. The LSO submitted 14 exhibits into the record; the Individual submitted 11 exhibits.

## II. Regulatory Standard

### A. Individual's Burden

A DOE administrative review proceeding under Part 710 is not a criminal matter, where the government has the burden of proving the defendant guilty beyond a reasonable doubt. Rather, the standard in this proceeding places the burden on the Individual because it is designed to protect national security interests. This is not an easy burden for the Individual to sustain. 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 (9<sup>th</sup> Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

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<sup>2/</sup> Criterion H concerns information that a person has “[a]n illness or mental condition of a nature which, in the opinion of a psychiatrist or a licensed clinical psychologist, causes or may cause, a significant defect in judgment or reliability.” 10 C.F.R. § 710.8(h). Criterion K describes derogatory information suggesting that an individual may have “[t]rafficked in, sold, transferred, possessed, used, or experimented with a drug or other substance listed in the Schedule of Controlled Substances established pursuant to section 202 of the Controlled Substances Act of 1970 (such as marijuana, cocaine, amphetamines, barbiturates, narcotics, etc.) except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, or as otherwise authorized by Federal law.” 10 C.F.R. § 710.8(k). Criterion L relates to information that a person has “[e]ngaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy; or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security . . .” 10 C.F.R. § 710.8(l).

<sup>3/</sup> Effective October 1, 2013, the titles of attorneys in the Office of Hearings and Appeals (OHA) changed from Hearing Officer to Administrative Judge. See 78 Fed. Reg. 52389 (August 23, 2013). The title change was undertaken to bring OHA staff in line with the title used at other federal agencies for officials performing identical or similar adjudicatory work.

The Individual must come forward with evidence to convince the DOE that restoring his access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Thus, an Individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

## **B. Basis for the Administrative Judge’s Decision**

In personnel security cases arising under Part 710, it is my role as the Administrative Judge to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). I am instructed by the regulations to resolve any doubt as to a person’s access authorization eligibility in favor of the national security. *Id.*

## **III. The Notification Letter and the Security Concerns at Issue**

As previously noted, the LSO cites three criteria as the bases for suspending the Individual’s security clearance, Criteria H, K, and L. To support its Criteria H and K allegations, the LSO relies on the Individual’s opioid use disorder diagnosis made by the DOE psychologist, and his opinion that the mental illness causes or may cause a defect in judgment and reliability; the Individual’s admitted misuse of his ex-wife’s<sup>4/</sup> prescription medication; and his ex-wife’s contention that their divorce was caused by his addiction to prescription pain medication. The Individual’s opioid use disorder diagnosis and prescription medication misuse raise a security concern under Criteria H and K because his actions “can impair judgment, reliability, or trustworthiness” and “raises questions about a person’s ability or willingness to comply with laws, rules, and regulations.” *See* Guidelines H and I of the *Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, issued on December 29, 2005, by the Assistant to the President for National Security Affairs, The White House (Adjudicative Guidelines). The Individual’s alleged contradictory statements regarding his alcohol consumption made during the June 2013 PSI and the DOE psychologist’s evaluation, along with his misuse of his ex-wife’s prescription medication, which violated the terms of a Drug Certification form that he signed in 1991, raises security concerns under Criterion L, because his actions involve “questionable judgment, lack of candor, dishonesty or unwillingness to comply with rules and regulations” those actions “can raise questions about [his] reliability, trustworthiness and ability to protect classified information.” *See* Guideline E of the Adjudicative Guidelines.

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<sup>4/</sup> Although the Individual and his ex-wife were married when he used her prescription medication, they are now divorced. I will refer to her as his ex-wife in this Decision.

#### IV. Findings of Fact

In March 1991, the Individual signed a Drug Certification Form because on his initial Questionnaire for National Security Positions he indicated that he had used marijuana in the past. DOE Ex. 10. The Drug Certification Form stated,

I agree that I will not buy, sell, accept as a gift, experiment with, traffic in, use or be involved with illegal drugs (narcotics, hallucinogens, and other drugs listed in the Controlled Substances Act) at any time, in any country, in any job in which I have been given a DOE access authorization or security clearance. I understand that this agreement does not stop me from using these kinds of drugs if a licensed physician lawfully prescribes the drug for me or lawfully gives me the drug.

DOE Ex. 8. During his background investigation with the Office of Personnel Management and at his June 2013 PSI, the Individual admitted that he used his ex-wife's prescription medications on several occasions in 2010 and in 2011. DOE Ex. 1 at 3; DOE Ex. 2 at 3; DOE Ex. 11 at 41-48, 50-55, 57-59, 72, 135-36. He stated that he found his ex-wife's pills while working in her closet. DOE Ex. 11 at 45-46. The Individual indicated that he had a prescription for both Hydrocodone and OxyContin that he was to take on an as needed basis for pain. Tr. at 131. He had run out of his medication and his doctor had not ordered a new prescription. DOE Ex. 11 at 50. The Individual stated that he was angry that she had hidden the pills from him. DOE Ex. 11 at 47-48. In 2010, he found and used 20 Hydrocodone pills and 20 OxyContin pills over a two-week period. DOE Ex. 11 at 51. In 2011, he found and used 20 of his ex-wife's Hydrocodone pills. DOE Ex. 11 at 58. After the PSI conducted in June 2013, the LSO referred the Individual to a DOE psychologist for an evaluation. The DOE psychologist diagnosed the Individual as suffering from opioid use disorder of moderate severity under the *Diagnostic and Statistical Manual for the American Psychiatric Association, Fifth Edition (DSM-5)*. DOE Ex. 4 at 13; DOE Ex. 1 at 1.

#### V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the Individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c)<sup>5/</sup> and the Adjudicative Guidelines. After due deliberation, I have determined that the Individual's access authorization should be restored. I find that restoring the Individual's DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this decision are discussed below.

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<sup>5/</sup> Those factors include the following: the nature, extent, and seriousness of the conduct, the circumstances surrounding the conduct, to include knowledgeable participation, the frequency and recency of the conduct, the age and maturity at the time of the conduct, the voluntariness of his participation, the absence or presence of rehabilitation or reformation and other pertinent behavioral changes, the motivation for the conduct, the potential for pressure, coercion, exploitation, or duress, the likelihood of continuation or recurrence, and other relevant and material factors.

### A. Criteria H and K

At the hearing, the Individual testified that he began using opioids after shoulder surgery in 2007. Tr. at 54. He used the medication in its prescribed dosages to help him sleep at night. Tr. at 55-56. He testified that he would take two pills at dinner, prior to going to sleep, and if he woke in the middle of the night in pain. Tr. at 56. The Individual testified that he would occasionally finish the medication prior to getting a new prescription. In 2010 and 2011, when he took his ex-wife's prescription, it was during one of the times when he may not have had any pills left. Tr. at 58. His ex-wife's medication was the same type and dosage as his previous and subsequent prescriptions. Tr. at 60. He replaced her medication with pills from his next prescription. Tr. at 98-99. The Individual concluded that he last used opioids in June or July of 2013, prior to his moving into his own home after his divorce. Tr. at 69-70, 120.

The Individual's friends and co-workers testified that they had never seen him under the influence of an opioid. Tr. at 12, 27, 28, 82, 90. His work has never suffered, even when going through his contentious divorce. Tr. at 14, 18-20, 27. His first character witness, who is a co-worker and a friend, testified that the Individual always follows the rules. Tr. at 17. His second character witness, who is his supervisor, testified that the Individual is diligent about following the rules. Tr. at 29. He continued that the Individual is very particular and meticulous in his work. Tr. at 38. The Individual's final character witness is also a co-worker and friend. Tr. at 79. He testified that the Individual has a good moral character. Tr. at 84. He attributed the Individual's misuse of his ex-wife's medication to stress in their marriage. Tr. at 89. The third witness opined that the divorce resulted from the ex-wife's personality change. Tr. at 84.

In his report, the DOE psychologist found that the Individual met four diagnostic criteria from the *DSM-5* and, therefore, diagnosed the Individual with opioid use disorder of moderate severity. DOE Ex. 4 at 12. The diagnostic criteria that the DOE psychologist found that the Individual met were numbers 5, 6, 7, and 10(b). DOE Ex. 4 at 11-12. Diagnostic criterion 5 states "[r]ecurrent opioid use resulting in a failure to fulfill major role obligations at work, school, or home." *DSM-5* at 541. Diagnostic criterion 6 is "[c]ontinued opioid use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of opioids." *Id.* Diagnostic criterion 7 is "[i]mportant social, occupational, and/or recreational activities are given up or reduced because of opioid use." *Id.* Finally, Diagnostic criterion 10(b) deals with tolerance and states, "[a] markedly diminished effect with continued use of the same amount of an opioid."<sup>6/</sup> *Id.*

The DOE psychologist testified that he had not heard anything at the hearing that would change his diagnosis. Tr. at 153. He explained why he believed the Individual met four diagnostic criteria for opioid use disorder. Tr. at 157-58, 182-87. First, the DOE psychologist stated that he met the fifth diagnostic criteria by lying to his ex-wife. Tr. at 182-85. Second, the DOE psychologist stated that the Individual met the sixth diagnostic criteria because his ex-wife did not like him using the medication. Tr. at 185-87. Third, the Individual met the seventh diagnostic criteria because he was misusing the drug, and given his previous problems with the DOE regarding his access authorization because of his alcohol use, the Individual should have

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<sup>6/</sup> This diagnostic criterion concludes that it "is not considered to be met for those taking opioids solely under appropriate medical supervision." *DSM-5* at 541. At all times, except the two occasions when the Individual used his ex-wife's medication, he was under a doctor's care.

known his misuse would cause a problem for him with the DOE. Tr. at 187. Finally, the DOE psychologist opined that the Individual met diagnostic criteria 10(b) of the *DSM-5*, because the Individual showed an increased tolerance to the medication. Tr. at 157-58. The DOE psychologist did conclude that the Individual had a low risk of relapse. Tr. at 197, 201. In his report, the DOE psychologist wanted to see 12 months of abstinence from the opioid to show that the Individual was committed to remaining abstinent. DOE Ex. 4 at 13. The DOE psychologist opined that the Individual has not completed any of the requirements listed in his report to be considered rehabilitated or reformed. Tr. at 166-68. However, in his conclusion at the hearing, the DOE psychologist stated that the Individual's prognosis was a low risk of relapse. Tr. at 201.

The Individual's psychiatrist testified that he disagreed with the DOE psychologist's diagnosis of opioid use disorder of moderate severity. Tr. at 124. He opined that the Individual did not meet *any* of the diagnostic criteria that the DOE psychologist found satisfied. Tr. at 124. The Individual's psychiatrist opined that there was no failure to meet major role obligations at work or home. Tr. at 125-27. The psychiatrist stated that the Individual was not having any difficulties at work. Tr. at 125. His testimony was supported by the testimony of the Individual's three character witnesses who stated that he had no difficulties at work and they had no knowledge that he was taking an opioid. The Individual's psychiatrist declared that the Individual was satisfying his role as a father and that any failure to fulfill his role as a husband resulted from the problems between he and his ex-wife, unrelated to his opioid use. Tr. at 127. Although the Individual's ex-wife claimed that the divorce occurred because of the Individual's opioid use, the Individual asserted that the divorce occurred because they had grown apart after their move to their present city. Tr. at 47. According to the Individual, his ex-wife found new interests that diverged from the interests they shared when they got married.<sup>7/</sup> Tr. at 47-48. He stated that he believes her new interests were "by far and away the overriding reason for the failure of our marriage and for the disintegration of the relationship between us, and it's been going on for a very long time." Tr. at 49. Her interests included contempt for modern medicine. Tr. at 51.

As to the sixth diagnostic criterion, the Individual's psychiatrist again took exception to the DOE psychologist's finding that the Individual met this diagnostic criterion. The psychiatrist stated that the diagnostic criterion states that it is met when the *effects* of the opioid cause interpersonal or social problems. Tr. at 127. The Individual's psychiatrist and the Individual both alleged that any interpersonal difficulties between the Individual and his ex-wife were not caused by his drug use, but rather because his ex-wife disdained the use of modern medicine. Tr. at 128. She did not appreciate his using *any* medication not just the Hydrocodone or the OxyContin. Tr. at 128.

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<sup>7/</sup> The Individual claimed that his wife became more spiritual after they moved. Tr. at 47, 106. Prior to their move, he states that they were both agnostic. Tr. at 105-06. After they relocated, she started yoga, especially accepting the more metaphysical aspects. Tr. at 47. As an example, after a yoga retreat, he noticed that she stopped eating meat. The Individual claimed that she stated that she decided to become a vegetarian because when she ate meat, she could "feel the fear of the animals being killed." Tr. at 48. Presently, she is involved with an organization that he believes to be a cult. Tr. at 48. The Individual went on to explain that his ex-wife spends 20 to 30 hours a week in activities that involve the organization, including meditation, chanting, yoga, meetings, and ceremonies. Tr. at 49. In addition, she goes to multiple events in different North American cities for that organization. Tr. at 49.

For the seventh diagnostic criterion, the DOE psychologist found that the Individual's opioid use resulted in a problem with the DOE that he should have been aware would occur because he had a previous problem with his access authorization in 2005. The Individual's psychiatrist disagreed with the DOE psychologist's application of the diagnostic criteria to the Individual's situation. Tr. at 129-30. He stated that any activities that the Individual had given up were due to his pain, rather than his opioid use. Tr. at 129-30. My reading of this diagnostic criterion agrees with that of the Individual's psychiatrist. The Individual did not appear to give up any occupational activities because of his opioid use. His three witnesses all testified that they saw no evidence of use. His work behavior and quality did not diminish.

For the tenth and final diagnostic criterion, the Individual's psychiatrist disagreed with the DOE psychologist's allegation that the Individual had an increased tolerance to the medication. The psychiatrist opined that the Individual's opioid use stayed within the dosage that was prescribed for his pain. Tr. at 131. He used the medication for pain at night when he was attempting to sleep. Tr. at 135-36. The Individual's psychiatrist also concluded that the Individual's risk of using an opioid again is low. Tr. at 148.

The DOE psychologist diagnosed the Individual with opioid use disorder under the *DSM-5*. The *DSM-5* was released in May 2013 and has not previously been applied in cases involving opioid use disorder. I have to balance the two doctors' opinions regarding the proper application of the diagnostic criteria to this Individual. In his testimony and report, the DOE psychologist stated that the previous edition of the *DSM-5* asserted that "[i]t is important that the DSM-IV not be applied mechanically by untrained individuals. The specific diagnostic criteria included in the DSM-IV are not meant to be used in a cookbook fashion." DOE Ex. 4 at 17; Tr. at 161. When questioned regarding the *DSM-5*'s position on the whether the diagnostic criteria should be applied mechanically or not, the psychologist stated that he had not been able to find any similar statement in the new edition. Tr. at 200.

The Individual's psychiatrist, who is a trained professional, disagreed with the DOE psychologist's application of the four diagnostic criteria in the *DSM-5* to the Individual. I find his application of the diagnostic criteria to be more credible. The instances that the DOE psychologist attributed to the Individual's opioid use could as easily been attributed to his declining marriage. The Individual testified that his ex-wife did not believe in modern medicine.<sup>8/</sup> She was angry at his opioid usage, because of her belief that modern medicine was wrong. The Individual's drug usage was not beyond what is allowed for the drug, according to the Individual's psychiatrist. The psychiatrist explained that typically a person with opioid use disorder would go beyond the use prescribed. Tr. at 129. He argued that the Individual did not do so. Tr. at 129. There is no evidence of "doctor shopping." Tr. at 132. Rather, any change in his doctor was because of retirement or referral by his primary care physician. Tr. at 132.

The Individual's witnesses saw no evidence of the Individual's opioid use. He testified that he only used the medication at night. His witnesses testified that the divorce was very difficult for the Individual. They stated that he is more relaxed since the divorce.

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<sup>8/</sup> When the Individual was questioned about why his ex-wife had the medications if she did not believe in modern medicine, the Individual responded that she had dental surgery that was very painful and she was prescribed the medication for the pain. She did not take any of the medication but got the prescription filled because of possible pain.

The testimony of the Individual's psychiatrist, along with that of his other witnesses convinced me that the Individual is not suffering from opioid use disorder of moderate severity. I find that the Individual's psychiatrist's application of the *DSM-5* to the Individual is more persuasive than the DOE psychologist's application. Both the DOE psychologist and the Individual's psychiatrist testified that the Individual's risk of returning to opioid use of any kind is low. Based on the foregoing, I find that the Individual has adequately mitigated the security concerns associated with Criteria H or K.

### **B. Criterion L**

The LSO cited the Individual's contradictory comments during the PSI and during the DOE psychologist's evaluation regarding his alcohol use as a concern under Criterion L. The LSO alleged that the Individual told the Personnel Security Specialist that he had not consumed alcohol since 2005 but that he told the DOE psychologist that he consumed alcohol for a week every night after moving out of the marital home in 2012. The LSO also alleged that the Individual stole and used 20 Hydrocodone pills and 20 OxyContin pills from his ex-wife's prescription medication in 2010 and 20 of his ex-wife's Hydrocodone pills in 2011 as concerns under Criterion L. Finally, the LSO raised the fact that the Individual stole and used his ex-wife's prescription medication violated the Drug Certification Form that he signed in March 1991 as a concern under Criterion L.

As to the Individual's statements regarding his alcohol use, I do not believe that the LSO's reading of the PSI transcript is correct. The Individual actually said, "I'm not one of these guys who, you know, is all proud of, I haven't touched a drop since, you know . . . 2005, but . . . it's not a part of my life." DOE Ex. 11 at 145. The Personnel Security Specialist never explicitly asked the Individual when he last consumed alcohol. The Individual stated to the DOE psychologist that he consumed alcohol after he moved out of his house in December 2012. DOE Ex. 4 at 5. The Individual continued that he "decided that [he] really did not want to drink anymore . . . did not want to get into that again." DOE Ex. 4 at 5. Based on this information, I find that the security concerns regarding the Individual's alleged contradictory statements about alcohol have been mitigated.

As to the Individual's stealing and use of his ex-wife's prescription medication, the Individual testified that he took her medication on several occasions in 2010 and 2011. Tr. at 56. The first time, he took 20 Hydrocodone pills and 20 OxyContin pills; the second time he took 20 Hydrocodone pills. DOE Ex. 11 at 51, 58; Tr. at 60. At the time, the Individual stated that he could not sleep because his doctors were trying to wean him off his prescription. Tr. at 60. He claimed it was an emotional decision to use his ex-wife's medication. Tr. at 60. The Individual stated that he was driven by resentment against her. Tr. at 60. She had a long-standing aversion to modern medicine, and her activities when they moved to their current city strengthened that aversion. Tr. at 52. She especially disapproves of how medicine is practiced in the United States. Tr. at 52. The Individual testified that he felt guilty about using her medication, but did not think about the illegality of his actions. Tr. at 61. I find that the Individual has mitigated the concern raised by his use of his ex-wife's medication. At the time of his use, the Individual was taking the same medication, but his prescription had lapsed. He replaced his ex-wife's medication when he re-filled his own prescription. I find that enough time has passed and the

Individual's behavior happened under such circumstances that it is unlikely to recur. Adjudicative Guideline, ¶ 17(c).

The Individual also testified that he was not thinking about the Drug Certification Form that he signed in March 1991, when he took his ex-wife's medication, because he was not taking an illegal drug. Tr. at 72. Both the DOE psychologist and the Individual's psychiatrist testified that it is not unreasonable and understandable that the Individual did not realize he was violating the Drug Certification Form because he was using a drug that had been legally prescribed to him. Tr. at 151, 198. The DOE psychologist concluded, "when you read the actual words in the drug certification, you have to want to know that it pertains to this, because it's not just as point-blank as it -- as we make it out to be sometimes." Tr. at 198. I find that the Individual has mitigated the concern raised by his violation of the Drug Certification Form. As the DOE psychologist stated at the hearing, it is not explicit that the Drug Certification Form actually pertains to the Individual's situation.<sup>9/</sup> Given that he has mitigated the other concerns raised by the LSO, I find that the Individual understands that his behavior was imprudent and, ultimately, illegal. However, I find that now that the Individual now understands that the Drug Certification Form applies to any misuse of prescription drugs as well as illegal drugs.

For the reasons enumerated above, I have determined that the Individual has correspondingly mitigated the concerns raised under Criterion L.

## **VI. Conclusion**

In the above analysis, I have found that there was sufficient derogatory information in the possession of the DOE that raises serious security concerns under Criteria H, K, and L. 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 have found that the Individual has brought forth sufficient evidence to mitigate the security concerns associated with Criteria H, K, and L. I, therefore, find that restoring the Individual's access authorization will not endanger the common defense and is clearly consistent with the national interest. Accordingly, I have determined that the Individual's access authorization should be restored. The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

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

Date: March 20, 2014

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<sup>9/</sup> In no way am I stating that the form does NOT apply to the Individual's situation. However, given the fact that the form was signed 20 years prior to the events and its lack of clarity, I can understand the Individual not remembering or understanding that the Drug Certification Form applied in this situation.