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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: April 2, 2021 ) Case No.: PSH-21-0041  
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Issued: June 22, 2021

**Administrative Judge Decision**

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXX XXXXX (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.”<sup>1</sup> For the reasons set forth below, I conclude that the Individual’s security clearance should be denied.

**I. BACKGROUND**

In 2016, the Individual’s physician prescribed him Hydrocodone for pain resulting from a shoulder injury. Ex. 7 at 2. The Individual began using this medication more frequently and in larger doses than the physician had prescribed for him. Ex. 7 at 2. The Individual began to run out of Hydrocodone before his refill date and would experience withdrawal symptoms and cravings. Tr. at 26-27, 31-32; Ex. 6 at 6; Ex. 7 at 2. The Individual then began using his mother’s prescription Hydrocodone. Tr. at 26-27; Ex.6 at 7; Ex. 9 at 2. In December of 2016, the Individual admitted himself to an inpatient treatment program (ITP) for three weeks which was followed by his completion of an Intensive Outpatient Program (IOP). After he completed the IOP, in early 2017, the Individual began attending Narcotics Anonymous (NA) meetings. Ex. 7 at 2.

In May 2018, an employer (the Employer) administered a drug screening test to the Individual which indicated that he had been using opiates. Ex. 7 at 2. As a result, he resigned from his position with the Employer.

On January 9, 2019, the Individual submitted a Questionnaire for National Security Positions (QNSP) to a Local Security Office (LSO) initiating his application for a DOE security clearance. Ex. 9 at 2. In this QNSP, the Individual reported his May 2018 resignation from the Employer

<sup>1</sup> 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.

resulting from his positive drug test. Ex. 9 at 17. The QNSP asked the Individual: “In the last seven (7) years, have you illegally used any drugs or controlled substances?” Ex. 9 at 38. The Individual responded “no” to this question. Ex. 9 at 38. The QNSP further asked the Individual: “In the last seven (7) years have you intentionally engaged in the misuse of prescription drugs, regardless of whether or not the drugs were prescribed for you or someone else?” Ex. 9 at 38. The Individual responded “no” to this question. Ex. 9 at 38. However, the QNSP further asked the Individual: “Have you EVER voluntarily sought counseling or treatment as a result of your use of a drug or controlled substance?” The Individual responded “yes” to this question. Ex. 9 at 38. The Individual further reported that he had been treated for “Narcotics” and that he had sought treatment in December 2016 after he became dependent on Hydrocodone prescribed to him by a doctor for shoulder pain.<sup>2</sup> Ex. 9 at 38-39. The Individual estimated that this treatment began in December 2016 and ended in January 2017. Ex. 9 at 39. The QNSP then asked the Individual: “Do you have another instance of EVER voluntarily seeking counseling or treatment of your use of a drug or controlled substance?” Ex. 9 at 39. The Individual responded “no” to this question. Ex. 9 at 39.

On June 26, 2019, the LSO issued a Letter of Interrogatory (LOI) to the Individual requesting the Individual to provide further information concerning his drug use. Ex. 6 at 2. On July 7, 2019, the Individual responded to the LOI. Ex. 6 at 1. In this response, the Individual reported that he sought treatment “Because I had become dependent on prescription opioids.” Ex. 6 at 2. The Individual further reported that he had voluntarily attended the ITP for three weeks and had then attended 20 sessions of the IOP as recommended by the ITP. Ex. 6 at 1. The Individual stated that his misuse of drugs did not continue after his treatment, that he had attended at least one NA meeting a week, and that he had completed a 12-step program. Ex. 6 at 2-3. The Individual claimed that his failure to answer the QNSP question asking if he had intentionally engaged in the misuse of prescription drugs correctly was due to “an error.” Ex. 6 at 3. The Individual further claimed that his positive drug test in 2018 resulted from his ingestion of pain medication provided by his father which the Individual mistakenly believed to be aspirin. Ex. 6 at 5. He further claimed that this was the last time he used opiates, and that prior to that, his last use of opiates occurred in December 2016. Ex. 6 at 6. The LOI asked the Individual if he had attended an outpatient program from January 2018 through February 2018, and why he had not reported his attendance in the QNSP. Ex. 6 at 2. The Individual responded by stating: “This was part of the recommendation of the inpatient that I went to.” Ex. 6 at 2.

Because of the concerns raised by the QNSP and LOI about the Individual’s opiate misuse and treatment, the LSO requested that the Individual be evaluated by a DOE-contractor Psychologist (Psychologist) who interviewed the Individual on September 30, 2019. Ex. 7 at 1. At the conclusion of her interview of the Individual, the Psychologist sent the Individual to a laboratory certified by the Substance Abuse and Mental Health Services Administration and Department of Health and Human Services for a drug screening test. Ex. 7 at 4, 8. The urine sample provided by the Individual tested positive for Hydrocodone indicating that he had used Hydrocodone sometime during the previous two days.<sup>3</sup> Ex. 7 at 4, 8. After conducting her interview of the Individual and receiving the results of the drug screening test, the Psychologist issued a report of her findings on

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<sup>2</sup> The Individual did not disclose that he had received this treatment on an inpatient basis but was not specifically asked whether this treatment was on an inpatient or outpatient basis.

<sup>3</sup> The test further indicated that the Individual tested positive for Hydromorphone, a metabolite of Hydrocodone. Ex. 7 at 8.

October 10, 2019. Ex. 7 at 6. In this report, the Psychologist reported that the Individual met the criteria for Opioid Use Disorder (OUD) Moderate set forth in the *Diagnostic and Statistical Manual - Fifth Edition* (DSM-5). Ex. 7 at 6. The Psychologist further indicated that the Individual needed to demonstrate the ability to abstain from opiate use for at least 12 months, and attend NA (or a similar program) on a weekly basis in order to show that he had been rehabilitated or reformed from his OUD and that his prognosis was favorable. Ex. 7 at 6.

On June 24, 2020, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his eligibility to hold 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), I took testimony from two witnesses, the Individual and the Psychologist. See Transcript of Hearing, Case No. PSH-21-0041 (hereinafter cited as "Tr."). The LSO submitted nine exhibits, marked as Exhibits 1 through 9 (hereinafter cited as "Ex."). The Individual submitted no exhibits.

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

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance, citing the Bond Amendment and Guidelines E and H 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) relates to conduct involving questionable judgment, lack of candor, or unwillingness to comply with rules and regulations, which raises questions about an individual's reliability, trustworthiness, and ability to protect classified information. Any failure to provide truthful and candid answers during the security clearance process is of particular concern. See Adjudicative Guidelines § 15. The LSO alleges that the Individual signed a QNSP on January 9, 2019, certifying that he had not engaged in the misuse of prescription drugs or illegally used any drugs or controlled substances when in fact the Individual, by his own admission, had misused Hydrocodone in 2016. The LSO also alleges that the Individual deceptively minimized the extent of his substance abuse treatment by failing to report that he attended the IOP from January 2018 through February 2018. The LSO further alleges that the Individual falsely reported to the Psychologist that his last use of opiates occurred in May 2018. These allegations raise a significant security concern that the Individual had attempted to conceal derogatory information during his clearance investigation. Accordingly, the LSO's concerns under Guideline E are justified.

The LSO alleges that the Individual's positive drug test for Hydrocodone on September 30, 2019, disqualifies the Individual from holding a security clearance pursuant to the mandates of the Bond Amendment. The Bond Amendment states: ". . . the head of a Federal agency may not grant or renew a security clearance for a covered person\_who is an unlawful user of a controlled

substance<sup>4</sup> or an addict . . .” 50 U.S.C § 3343(b). These allegations raise a significant security concern that the Individual may still be abusing Hydrocodone. Accordingly, the LSO’s concerns under the Bond Amendment are justified.

The LSO cites the following matters as security concerns under Guideline H: the Psychologist’s finding that the Individual has OUD; the Individual’s positive drug test for Hydrocodone on September 30, 2019; his resignation from a former employer after failing a drug test; and his history of both inpatient and outpatient treatment for Hydrocodone dependence. Guideline H (Drug Involvement and Substance Misuse) relates to security risks arising as a result of an individual’s illegal use of controlled substances, including misuse of prescription and non-prescription drugs, and use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose. Illegal drug use raises concerns about an individual’s reliability and trustworthiness because such drug use may impair a person’s judgment and because illegal drug use raises questions about a person’s ability or willingness to comply with laws, rules, and regulations. *See* Adjudicative Guidelines at § 24. The conditions that could raise a disqualifying security concern under Guideline H include “any substance misuse,” “testing positive for an illegal drug,” and “diagnosis by a duly qualified . . . clinical psychologist . . . of substance use disorder.” Guideline H at § 25(a), (b), and (d). These allegations raise significant security concerns. Accordingly, the LSO’s concerns under Guideline H 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 his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to

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<sup>4</sup> “Controlled substance” is defined in the Amendment as any substance listed as a controlled substance by 21 U.S.C. § 802.

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. THE HEARING**

At the Hearing, the Individual attempted to show that he did not intentionally provide false information to the LSO during his investigation; has not intentionally used opiates since December 2016; and has fully complied with the Psychologist's treatment recommendations.

The DOE Counsel asked the Individual why he stated in his QNSP that he had not engaged in the misuse of prescription drugs or illegally used any drugs or controlled substances when in fact he had admittedly misused Hydrocodone in 2016. The Individual responded by stating: "The reason I answered no to those questions, I took that as going out here and -- and buying prescription medication off of people, from people off the street, like a drug dealer." Tr. at 17. When the Individual was asked why he failed to report his outpatient treatment in the QNSP, he responded by stating: "It wasn't like I had two different treatments. You know, when I finished up with my inpatient, they referred me to -- the referral was for me to do 20 outpatients right after I left my inpatient.... it wasn't like there was a break in between." Tr. at 18-19, 52-53.

The Individual also testified about the circumstances that led to his positive drug test in May 2018. The Individual claimed that while he was visiting his father, he asked his father for some aspirin. Tr. at 20. His father then brought him two tablets, which appeared to the Individual to be "Bayer aspirins" which the Individual then consumed. Tr. at 20-22. These tablets turned out to be Hydrocodone. Tr. at 19. Tr. at 22.

The Individual attempted to minimize the significance of his treatment for Hydrocodone dependence, testifying "I went to the treatment facility before it got full-blown, you know, before I got into a full-blown, you know, addiction ... that's why I took it upon myself to voluntarily seek treatment." Tr. at 21. He further testified that he started treatment because he wanted to "nip it in the bud before it got worse." Tr. at 33. The Individual also contended that the ITP intake counselor "talked me into the inpatient program for insurance" and wanted him to exaggerate the frequency of his use to ensure that he would qualify for inpatient treatment. Tr. at 74-76. The Individual claimed that he has no triggers and that he has not struggled with staying sober. Tr. at 30-31, 34, 57. He testified that he attends NA meetings, that he has obtained a sponsor, and that he has worked all twelve steps of the NA program. Tr. at 34-35, 54, 56. The Individual was unable to specifically recall his sobriety date and indicated that the specific date was unimportant to him. Tr. at 36, 52, 72. He admitted that he does not attend NA meetings "like I should" because of his busy schedule, estimating that he attends NA meetings "probably once every month." Tr. at 36. He claimed he had last attended an NA meeting two weeks prior to his testimony. Tr. at 37.

The Individual testified that his September 30, 2019, drug screening test was conducted improperly. He testified that when he handed his urine specimen to the technician, she set it on a counter with two other unlabeled cups of urine. Tr. at 39, 42. He claimed that his specimen cup did not have his name or a label on it. Tr. at 39-42. He further testified that he knows the test was inaccurate because he had not used any drugs prior to the test. Tr. at 40, 44, 47-48. The Individual repeatedly admitted that he did not raise any of his alleged concerns about the test prior to receiving the Psychologist's report, however, he subsequently testified that he had raised these concerns to his

supervisor. Tr. at 41-43. He claimed that he failed to raise any contemporaneous concerns about the urine test because he thought that the Psychologist “was just seeing if I was going through to take the drug test.” Tr. at 42. The Individual testified that he had taken “quite a few” drug tests since he failed the May 2018 test and that he passed all of them. Tr. at 45-46. He also testified that he did not get any drug testing done in response to the Psychologist’s recommendation that he do so. Tr. at 49. The Individual testified that his last Hydrocodone use occurred when he used the Hydrocodone provided by his father in May 2018. Tr. at 52, 71. The Individual testified that he complied with most of the Psychologist’s recommendations, except for her recommendation that he obtain regular drug testing and attend NA on a weekly basis (instead choosing to attend on a monthly basis). Tr. at 67-68. When he was asked why he did not fully comply with the Psychologist’s recommendation, he stated “I didn’t know that you was asking me to do this. I mean, I would have had no problem at all with doing anything you asked me to do. So when I read that, that was, you know -- I took this as you -- this is a recommendation to the employer of what you would have me to do.” Tr. at 69.

The Psychologist testified at the Hearing after observing the Individual’s testimony. She testified that she had not observed any evidence that the Individual is reformed or rehabilitated from his OUD or that his prognosis had improved. Tr. at 80. She noted that the Individual testified that he attends NA but did not present the testimony of a sponsor or submit a sign-in sheet. Tr. at 81. She further noted that the Individual is not complying with her recommendation that he attend NA on a weekly basis. Tr. at 81. The Psychologist testified: “Even if the urine test had not come back positive, I was concerned about [the Individual’s] prognosis given the number of times prior to the evaluation that I felt that he didn’t take responsibility for his mistakes.” Tr. at 81. She noted, however, that he had voluntarily entered treatment which she characterized as “a very good thing.” Tr. at 81. However, she testified that the Individual “still has a pretty loose grasp on his experience of addiction and recovery,” and that she didn’t see the Individual “making this recovery process a priority.” Tr. at 83. The Psychologist testified that the Individual had identified a trigger during her interview of him: “just driving by that doctor’s office.” Tr. at 87. She noted that rehabilitation from a substance abuse disorder requires more than abstaining from that substance, but rather requires that an individual demonstrate that they acknowledge the problem, have made demonstrable changes to ensure that the problem doesn’t recur, and recognize the risk that it could recur. Tr. at 92. The Psychologist testified that the results of the drug screening suggested to her that the Individual had not been candid during his interview with her, but she further testified that it was not the basis for her conclusion that the Individual is not yet rehabilitated from his OUD. Tr. at 92-93.

## **V. ANALYSIS**

In the present case, the Individual has submitted no evidence, other than his own uncorroborated testimony, in support of his assertions that he has not used Hydrocodone since May 2018 and that he has been successfully rehabilitated from his OUD. I find that his testimony to this effect lacks credibility.

### **Guideline E Concerns**

While the Individual incorrectly answered two questions in the QNSP that would have revealed his illegal drug use if answered correctly, I find that his assertions that he misinterpreted those

questions to be credible, since elsewhere in this QNSP, he admitted that he had resigned from the Employer after testing positive for illegal drug use, and that he had undergone treatment for narcotics use.<sup>5</sup>

However, the evidence in the Record indicates that the Individual intentionally provided false information to the Psychologist during his September 30, 2019, psychological evaluation when he stated to her that he had not used any opiates since May 2018. The Individual continued to make this claim at the hearing, where he testified under oath that his last use of opiates occurred in May 2018. At the hearing, the Individual attempted to discredit the accuracy of the urine drug test administered to him on September 30, 2019, by providing an uncorroborated and difficult-to-believe account of the circumstances under which that test occurred. There is objective evidence in the Record, a positive drug test conducted by a laboratory certified by the Substance Abuse and Mental Health Services Administration and Department of Health and Human Services, indicating that the Individual had used Hydrocodone during the previous two days. Accordingly, the evidence in the Record indicates that the Individual deliberately provided false information during his psychological evaluation and at the hearing before me. I therefore find that the Record indicates that the Individual has engaged in conduct revealing his questionable judgement, lack of candor, dishonesty, and unwillingness to comply with rules and regulations by failing to provide truthful and candid answers to the LSO during his security clearance investigation, and at the Hearing.

The following conditions (in relevant part) may mitigate Personal Conduct security concerns arising under Guideline E. Section 17(a) provides that mitigation can occur if “the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” Adjudicative Guideline E at § 17(a). In the present case, the Individual had not made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts. In fact, he continued the falsification during his hearing. Accordingly, I find that the Individual has not shown that the mitigating condition set forth at § 17(a) is present in the instant case.

Section 17(c) provides that mitigation can occur if “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.” Adjudicative Guideline E at § 17(c). The Individual’s attempts to conceal his continuing Hydrocodone use were not minor offenses and they continued at the Hearing. Accordingly, they are likely to continue, and therefore cast doubt upon the Individual’s current reliability, trustworthiness, and good judgment. Therefore, I find that the Individual has not shown that the mitigating condition set forth at § 17(c) is present in the instant case.

Section 17(d) provides that mitigation can occur if “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 Guideline E at § 17(d). In the present case, the Individual has not acknowledged his falsifications or obtained

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<sup>5</sup> Moreover, I found the Individual did not fail to report his IOP treatment. I believed the Individual’s testimony that he attended the IOP in 2017, immediately after he completed the ITP, rather than in 2018, and therefore mistakenly stated in the LOI that he attended the IOP in 2018.

counseling to change this behavior, and it is likely to recur. Accordingly, I find that the Individual has not shown that the mitigating condition set forth at § 17(d) is present in the instant case.

I therefore find that the Individual has not mitigated the LSO's Guideline E security concerns.

### **Guideline H and Bond Amendment Concerns**

The Individual has a well-documented history of Hydrocodone abuse, which has resulted in his attending the ITP and IOP, a loss of employment resulting from a positive test for Hydrocodone, at least two positive tests for Hydrocodone, and a diagnosis of OUD, Moderate, by the Psychologist. Despite this history, the Individual has unsuccessfully attempted to show that he addressed his Hydrocodone issues before they became serious. The Individual has further claimed that he has been rehabilitated from his Hydrocodone abuse and has not intentionally ingested Hydrocodone since December 2016 when he entered the ITP. While the Record shows that the Individual attended the ITP, IOP, and NA, there is no evidence in the Record, other than the uncorroborated, self-serving, and difficult-to-believe testimony of the Individual, indicating that he has been abstaining from Hydrocodone abuse. To the contrary, the Record contains objective evidence, in the form of two positive drug tests, that the Individual has continued to abuse Hydrocodone. Moreover, despite the Individual's history, he does not acknowledge the significance of his Hydrocodone abuse and exhibits little regard for the treatment and support he received at the ITP, IOP, and NA, raising the concern that even if he has been abstaining from Hydrocodone, his recovery is still not complete. Because the Individual has not shown that he is not currently using Hydrocodone, I find that he is an "unlawful user of a controlled substance" and is therefore ineligible to receive a security clearance under the Bond Amendment. 50 U.S.C. § 3343(b).

The Adjudicative Guidelines set forth four conditions which may provide mitigation of security concerns arising under Guideline H. Guideline H at § 26. None of these conditions are present in the instant case.

Section 26(a) provides that an individual may mitigate concerns arising under Guideline H by showing "the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgement." Adjudicative Guideline H at § 26(a). However, the circumstances set forth in § 26(a) are not present in the instant case. The Record shows that the Individual has continued to abuse Hydrocodone as recently as September 30, 2019. The Individual's history indicates that there is a likelihood that he will use Hydrocodone again. The Record further shows that the Individual has attempted to conceal the true extent of his Hydrocodone abuse during the present proceeding, thus exhibiting a defect in his current reliability, trustworthiness, and good judgement.

Section 26(b) provides that an individual may mitigate concerns arising under Guideline H by showing that he or she "acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence . . ." Adjudicative Guideline H at § 26(b). However, the circumstances set forth in §26(b) are not present in the instant case. While the Individual has attended the ITP, IOP, and NA, the Individual's two positive drug tests show that he has not established a pattern of abstinence.



Section 26(c) provides that an individual may mitigate concerns arising under Guideline H by showing that their “abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended.” Adjudicative Guideline H at § 26(c). However, the circumstances set forth in § 26(c) are not present in the instant case. While the Individual’s Hydrocodone abuse resulted after his physician prescribed him the drug, he has not shown that his abuse has ended.

Section 26(d) provides that an individual may mitigate concerns arising under Guideline H by showing “satisfactory completion of a prescribed drug treatment program including, but not limited to rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.” Adjudicative Guideline H at § 26(d). However, the circumstances set forth in § 26(d) are not present in the instant case. While the Individual has attended the ITP, IOP, and NA, the Record shows that his Hydrocodone abuse recurred on at least two occasions, and the Record does not show that a duly qualified medical professional has concluded that he has a favorable prognosis.

I therefore find that the Individual has not mitigated the LSO’s Guideline H and Bond Amendment security concerns.

## **VI. CONCLUSION**

For the reasons set forth above, I conclude that the Bond Amendment disqualifies the Individual from maintaining a security clearance. I also find that the LSO properly invoked Guidelines E and H. After considering all the evidence, both favorable and unfavorable, in a commonsense manner, I find that the Individual has not mitigated the security concerns raised under Guidelines E and H. Accordingly, the Individual has not demonstrated that granting his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, the Individual’s security clearance should be denied. The parties may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine  
Administrative Judge  
Office of Hearings and Appeals