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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: June 10, 2021)	Case No.: PSH-21-0074
)	
_____)	

Issued: August 24, 2021

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

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

I. BACKGROUND

The Individual is a software engineer employed by a DOE contractor. Exhibit (Ex.) 6 at 22; Ex. C at 1. On January 10, 2020, an Office of Personnel Management (OPM) investigator interviewed the Individual as part of a routine investigation of his continued eligibility for access authorization. Ex. 6 at 48. The OPM investigator's interview summary indicates that the Individual suspected that a secretary (the "Secretary") and two other women, all of whom he believed to be of Chinese descent, "were trying to hijack" a counterintelligence-related software project (the "Project") on which he had worked in 2011 and that "there could be more people . . . involved in trying to steal information . . . to give to China." *Id.* at 49–50. The OPM investigator indicated that the Individual believed that his and his children's lives would be in jeopardy if his coworkers of Chinese descent learned that he had reported this information. *Id.* According to the OPM investigator, the Individual's demeanor changed when he began discussing his suspicions, and he looked around the room and expressed that it might be "bugged." *Id.* at 54. In November 2020, the Individual arranged to meet with a Federal Bureau of Investigation (FBI) agent concerning his suspicions. Ex. 7 at 22.

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

On March 1, 2021, the Individual met with a DOE-contracted psychologist (DOE Psychologist) for a clinical evaluation. Ex. 3 at 1. The DOE Psychologist conducted a clinical interview and administered the Minnesota Multiphasic Personality Inventory-3 (MMPI) and a Rorschach test to the Individual. *Id.* at 1, 4. During the clinical interview, the Individual identified three coworkers of Chinese descent who he suspected of acting on behalf of the Chinese government: the former head of the Project (the “Project Head”), a coworker involved in overseeing software (the “Software Leader”), and the Secretary. *Id.* at 2–3. The Individual disclosed the bases for his suspicions, including his beliefs that: the Project Head had prevented him from volunteering contributions to the Project to undermine its success and was meeting with a “handler” while on work-related travel; the Software Leader wanted him to hide a “special security camera” from another employee and drew a cartoon expressing sadness about transferring to another DOE site because she was forced to transfer by foreign operatives; and the Secretary demonstrated an inappropriate interest in his work by inquiring as to how the Project was proceeding. *Id.* at 2–3. The Individual said that he disclosed his concerns to a supervisor in 2011, but he was not taken seriously, and he did not disclose his concerns again because he believed “that the Chinese would ‘kill my family and me.’” *Id.* Following the clinical interview, the DOE Psychologist issued a psychological assessment (Report) in which he concluded that the Individual met the diagnostic criteria for Delusional Disorder, Persecutory Type, Continuous, under the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*.² *Id.* at 6.

The LSO issued the Individual a letter in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 2 at 1–2. In a Summarization of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline I (Psychological Conditions) of the Adjudicative Guidelines. *Id.* at 3–4.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 1. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative hearing. The LSO submitted twelve exhibits (Ex. 1–12) into the record.³ The Individual submitted nine exhibits (Ex. A–I). The Individual testified himself and presented the testimony of a

² The DOE Psychologist found that the Individual met all five of the diagnostic criteria for Delusional Disorder. Ex. 3 at 6. He determined that the first diagnostic criterion was satisfied by the Individual’s longstanding suspicions that his coworkers were acting on behalf of the Chinese government to thwart his work and obtain sensitive information. *Id.* The second criterion was met because the Individual did not meet diagnostic criteria for schizophrenia. *Id.* The third criterion was met because, other than his delusional beliefs regarding his coworkers of Chinese descent, the Individual’s functioning was not markedly impaired, and his behavior was not obviously bizarre. *Id.* The fourth and fifth diagnostic criteria were met because the Individual’s behavior was not attributable to manic or depressive episodes, substance abuse, or another medical or psychological condition. *Id.*

³ During the hearing, testimony from the DOE Psychologist revealed that he prepared notes while administering the Rorschach test which were not in evidence. Hearing Transcript at 223–30. The LSO submitted the DOE Psychologist’s notes and scoring of the Rorschach test as Ex. 10 during the hearing. The Individual’s Counsel was offered the option of recalling the DOE Psychologist for additional cross-examination approximately ten days after the hearing to provide him with adequate opportunity to consult an expert regarding the scoring of the Rorschach test in preparation for cross examination. *Id.* at 322–23, 328. The Individual’s Counsel declined this offer. *Id.* at 329–30.

psychiatrist who conducted an evaluation of the Individual (Individual's Psychiatrist), and the DOE presented the testimony of the DOE Psychologist. Hearing Transcript (Tr.) at 3.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline I (Psychological Conditions) of the Adjudicative Guidelines as the basis for its determination that the Individual was ineligible for access authorization. Ex. 2 at 3. "Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline." Adjudicative Guidelines at ¶ 27. The SSC cited the following allegations as raising security concerns under Guideline I: the DOE Psychologist diagnosed the Individual with Delusional Disorder, Persecutory Type, Continuous, under the *DSM-5*; and the Individual made unsubstantiated allegations to an OPM investigator, FBI agent, and the DOE Psychologist that three coworkers were attempting to compromise a project he worked on and that he feared for his life. Ex. 2 at 3. The LSO's allegations that the Individual engaged in paranoid or bizarre behavior that casts doubt on his judgment, stability, reliability, or trustworthiness, and the DOE Psychologist's determination that the Individual met the diagnostic criteria for a psychological condition that may impair his judgment, stability, reliability, or trustworthiness, justify the LSO's invocation of Guideline I. Adjudicative Guidelines at ¶ 28(a)–(b).

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Dep't of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" 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 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.

IV. HEARING TESTIMONY

The Individual's Psychiatrist testified that the Individual retained him for an evaluation in connection with this proceeding, and he reviewed documents provided to him by the Individual and conducted a clinical interview. Tr. at 22–23; *see also* Ex. C at 1 (reflecting that the Individual's Psychiatrist conducted the clinical interview of the Individual on July 16, 2021). The Individual's Psychiatrist characterized the Individual as a “quirky fellow” with a suspicious nature and poor inter-personal skills. Tr. at 26–27.

During the clinical interview, the Individual told the Individual's Psychiatrist that he had documented “issues and inconsistencies” related to his colleagues of Chinese descent that “arose over the course of 10 [or] 11 years,” and that he felt that “they certainly may be” Chinese operatives, but did not “feel that [the things he documented] rose to the level of actually being something that could be pursued perhaps.” *Id.* at 27, 104. The Individual's Psychiatrist indicated that, during the clinical interview, the Individual did not display active fear of being harmed by “the Chinese,” and the Individual's fear seemed to have lessened since his clinical interview with the DOE Psychologist. *Id.* at 70–71. However, the Individual's Psychiatrist indicated that the Individual “didn't go too far into” his fear and that “the more we talked about it, the more it seemed like it was an unpleasant event. And he tended to get more anxious, frankly.” *Id.* at 69–70.

The Individual's Psychiatrist diagnosed the Individual with Adjustment Disorder with disturbances of emotion and conduct and noted that the Individual might meet the diagnostic criteria for Autism Spectrum Disorder, Mild. *Id.* at 66; Ex. C at 5–6. He opined that the Individual's judgment and reliability were not impaired and that, given time to resolve the stress of attempting to disclose his suspicions, he had a positive prognosis for avoiding aberrant behavior in the future. Tr. at 31–32; Ex. C at 8. The Individual's Psychiatrist gave the Individual a positive prognosis for the resolution of his paranoia and fear of retaliation within six months based on the Individual's clinical presentation and the information that he was provided. Tr. at 74–75, 99–100.

The Individual's Psychiatrist testified that he generally agreed with the DOE Psychologist's interpretation of the MMPI, but that the inferences he drew from MMPI scales within the normal range were inappropriate. *Id.* at 32–34. The Individual's Psychiatrist also expressed skepticism as to the value of the Rorschach test as a diagnostic tool and asserted that it is susceptible to projections on the part of the interpreting practitioner. *Id.* at 42–43.

The Individual's Psychiatrist testified that he was “quite shocked” that the DOE Psychologist had diagnosed the Individual with Delusional Disorder in light of the “extraordinarily low” prevalence of the condition in the general population, which he estimated at 0.02%, and he felt that a higher burden of proof than “check[ing] the boxes when it comes to the *DSM-5*” was warranted before making such a rare diagnosis. *Id.* at 23–24. The Individual's Psychiatrist also disagreed that the Individual's beliefs regarding his colleagues of Chinese descent were fixed and false, and, therefore, he did not find them delusional. *Id.* at 102–04. He felt that, in light of news media coverage establishing that Chinese espionage is a real phenomenon, the DOE Psychologist could not definitively determine that the Individual's beliefs were false. *Id.* at 27–28, 51. He also indicated that he did not believe that the Individual's beliefs were fixed and unshakeable, as required for a diagnosis of Delusional Disorder, because the Individual showed insight into the possibility that he might be wrong and “if he really felt that this was . . . espionage, I believe he

would have come forward sooner.” *Id.* at 94–95. The Individual’s Psychiatrist noted that his opinion would have been different had the Individual displayed the same beliefs about Chinese espionage but did not work in a position related to national security, and the DOE Psychologist should have taken into account the Individual’s professional background in making his diagnosis. *Id.* at 53–55.

The Individual’s Psychiatrist noted that the *DSM-5* specifically required a diagnosing professional to consider the patient’s culture and religious beliefs when making a diagnosis, which he believed that the DOE Psychologist failed to do, and he provided, as an example, that a belief in witchcraft would not be delusional for members of certain traditional cultures who believe in its existence as a tenet of their culture. *Id.* at 28, 48–49. The Individual’s Psychiatrist expressed the opinion that it is not unusual for persons of the Individual’s background, including his cybersecurity profession, extreme patriotism, and conservative cultural beliefs, to display some level of paranoia and fear regarding subjects like Chinese espionage. *Id.* at 28–29, 50. The Individual’s Psychiatrist also observed that the Individual’s religious beliefs and personality caused him to experience extreme guilt for not disclosing what he perceived to be legitimate fears regarding Chinese espionage and that these cultural factors pushed him to disclose his suspicions. *Id.* at 95–97.

The Individual testified that he grew up in a small, rural community where he was heavily influenced by his church and family which cultivated in him a strong feeling of patriotism. *Id.* at 113–14. The Individual noted that he had worked in defense-related software development after graduating from college, and he had devoted significant care to his work and protecting classified information. *Id.* at 116–19.

The Individual denied that he ever concluded that he was working with Chinese spies in his employment with the DOE contractor. *Id.* at 119. The Individual testified that he developed suspicions that the Project Head wanted the Project to fail after she directed him not to provide additional technical support to customers. *Id.* at 119–21. The Individual testified that he feared that he would be removed from the Project or lose his job if he reported his concerns to his manager or site security. *Id.* at 122. The Individual also recounted other behavior he previously disclosed concerning the Project Head, such as the two occasions on which he believed that she had lied to him and her habit of travelling early when returning home from other DOE sites, and reiterated that he found the “accumulation” of behaviors suspicious. *Id.* at 160–65.

The Individual indicated that he suspected the Software Leader after she asked him to store a camera in his office. *Id.* at 165–66. The Individual testified that he subsequently learned that the camera contained “several thousand pictures of critical infrastructure.” *Id.* at 136–37. The Individual clarified his account of the cartoon drawn by the Software Leader, noting that the Software Leader had included a message indicating that she “had” to leave for another location, and he believed that the Chinese military used threats of things like relocation to control “agents” which could have been the case for the Software Leader. *Id.* at 166–68. The Individual expressed the opinion that the incident concerning the camera and the circumstances of the Software Leader’s transfer to another site, including her drawing a cartoon expressing sadness about transferring, raised sufficient concerns to report her behavior to the FBI. *Id.* at 169. Regarding the Secretary, the Individual indicated that his suspicions were related to one occasion on which she asked him

questions about the Project and that the inquiry on that occasion was sufficient to justify reporting her behavior to the FBI. *Id.* at 170–71.

The Individual reported that he voiced his concerns regarding his colleagues of Chinese descent to a counterintelligence officer in 2011. *Id.* at 147–48. When questioned regarding the inconsistency of this information with his statement to the OPM investigator that he had disclosed his suspicions to a supervisor, the Individual testified that he had disclosed his suspicions to the supervisor, who replaced the Project Head, as well as the counterintelligence officer. *Id.* at 148–49. The Individual reported that he lost confidence in the counterintelligence capabilities of the persons to whom he made his disclosures when they dismissed his concerns and decided not to raise his concerns again until his children were adults out of fear of losing his job. *Id.* at 154–55.

The Individual reported that he disclosed his suspicions to the OPM investigator because he thought that he was required to do so to comply with DOE reporting requirements. *Id.* at 127–28, 144–45; Ex. F. The Individual claimed that the OPM investigator omitted relevant information from the summary of the interview. Tr. at 123. The Individual represented that he told the OPM investigator that he believed that he might be subject to retaliation if his allegations led to the investigation and imprisonment of the employees who he suspected, not that Chinese agents were actively seeking to kill him at that time. *Id.* at 124. The Individual also asserted that the OPM investigator had suggested that he might pursue the witness protection program, which he endorsed as a hypothetical possibility, after he said that he might change his address if his allegations led to the investigation and imprisonment of the employees he suspected. *Id.* at 125. The Individual indicated that he had considered that the room at the DOE site in which the interview was conducted might have been “bugged,” but that he “had no idea” whether it was or was not. *Id.* at 125–26.

The Individual represented that he disclosed “suspicious activities” he had observed to the FBI, including efforts to “thwart” the Project, but not that he had uncovered Chinese spies. *Id.* at 126. According to the Individual, he became motivated to disclose his suspicions after a discussion about world events with a friend and decided that “[b]efore I retire or before I die, I want to do what I feel I’m supposed to do.” *Id.* at 187–88; *see also* Ex. A (confirming that the Individual spoke with a friend about his suspicions in February 2021). The Individual testified that he expressed fears of retaliation, but not fears for his life, to an FBI agent. Tr. at 128, 157.

The Individual did not recall telling the DOE Psychologist that he feared for his life, but he said he did relay his prior statements to the OPM investigator that he feared retaliation if his allegations led to the investigation of the employees he suspected. *Id.* at 130–31. Regarding the Rorschach test, the Individual noted that a response the DOE Psychologist cited in his Report as unusual was informed by his understanding of the human anatomy and his best efforts to interpret a green spot present on the image. *Id.* at 131–33. The Individual stated that his job is very detail oriented, and that he had applied his practice of looking for non-obvious information in interpreting the Rorschach inkblots. *Id.* at 134.

The Individual indicated that he did not seek treatment after receiving the DOE Psychologist’s diagnosis, and, instead, he reflected on how he could improve his communication skills and rethought whether he should have reported his suspicions in the first place. *Id.* at 174. The

Individual represented that he did not report a fear for his life at the time of his evaluation by the Individual's Psychiatrist. *Id.* The Individual indicated that he would pursue treatment "if it had a bearing on [his] clearance." *Id.* at 177.

The Individual indicated that his perception of the events he deemed suspicious had changed somewhat since his interview with the OPM investigator, and that the Project Head might have had valid reasons for preventing him from volunteering contributions on the Project and not disclosed them to him because of her personality. *Id.* at 179. The Individual indicated that the person from whom he believed that the Software Leader wanted him to hide the camera had told him that the Software Leader might have been "going to get some pictures off of it to prepare a presentation that she was on the hook to prepare . . ." *Id.* However, the Individual believes that his colleagues of Chinese descent "were doing things that if they were agents, an agent might do" but that he "didn't have enough details to conclude that they were agents." *Id.* at 183.

The DOE Psychologist testified that the Individual's presentation in the clinical interview was "very charged up" and that he volunteered a great deal of information concerning his suspicions, whereas in the hearing the Individual presented much less certainty in his convictions. *Id.* at 193. The DOE Psychologist expressed that, in the clinical interview, the Individual relayed current fears for his life related to the Project Head potentially learning of his disclosures. *Id.* at 194, 199. In the opinion of the DOE Psychologist, the Individual's testimony at the hearing demonstrated that he had learned how to manage his presentation but not that he had resolved his delusional beliefs. *Id.* at 278-79. The DOE Psychologist acknowledged that Delusional Disorder is rare, but that the Individual's consistent beliefs over eleven years regarding Chinese agents operating at the DOE site represented a delusion. *Id.* at 204-05. The DOE Psychologist opined that the Individual's responses to the Rorschach test exemplified how Delusional Disorder caused him to make inaccurate inferences based on negative ideas which impair his reasoning. *Id.* at 205-06.

The DOE Psychologist disagreed with the Individual's Psychiatrist's opinion because of the long duration of the Individual's delusional beliefs, which was inconsistent with the Individual's Psychiatrist's opinion that the Individual displayed an emotional response to a stressful event. *Id.* at 206, 214-15. He also disagreed with the Individual's Psychiatrist's opinion that the Individual's beliefs were rooted in culture rather than delusion based on his experience working with subjects from culturally conservative backgrounds of a similar nature. *Id.* at 215-16. The DOE Psychologist testified that the Rorschach test was a valid, recognized tool in the field of clinical psychology used to collect information regarding cognitive functions, but it was not a diagnostic tool in and of itself. *Id.* at 218-19. The DOE Psychologist also testified that reliance on MMPI scores alone was insufficient to draw diagnostic conclusions, and he reviewed subjects' specific responses to learn how they approached the MMPI and clinical interview. *Id.* at 219-21. He indicated that he assigned minor weight to the results of the Rorschach test in making his diagnosis, and he did not rely on the results of the MMPI. *Id.* at 218-19, 273, 308, 320.

The DOE Psychologist testified that he considered other potential diagnoses for the Individual, but he decided upon Delusional Disorder because the Individual was not schizophrenic, he did not display signs of a narcissistic character disorder, and his delusions were limited to his paranoia about Chinese espionage. *Id.* at 247-48. The DOE Psychologist observed that the Individual displayed a fixed delusion that Chinese intelligence was operating an intelligence scheme over a

period of eleven years. *Id.* at 250. Although the DOE Psychologist could not absolutely conclude that the Individual's suspicions were false, he found the Individual's "lack of readiness to find other explanations" for the things he found suspicious to be indicative of a fixed false belief that he had discovered espionage by his colleagues. *Id.* at 251, 261.

V. FINDINGS OF FACT

During a January 10, 2020, interview, the Individual volunteered to an OPM investigator that the Secretary and two other colleagues of Chinese descent were trying to disrupt the Project and gain information to give to China.⁴ Ex. 6 at 49–50. The Individual declined to divulge details of his suspicions to the OPM investigator because they were not meeting in a classified space and the room might have been "bugged." *Id.* at 50, 53; Tr. at 125–26. The Individual reported disclosing his suspicions to a supervisor in the past, but the supervisor dismissed his allegations and he was too frightened to disclose his suspicions in a prior OPM investigation concerning his eligibility for a security clearance. Ex. 6 at 50. The Individual told the OPM investigator that he feared for his life, that the lives of his family might be in jeopardy due to his allegations, and that he might need to be placed in the witness protection program. *Id.*; Tr. at 123–25. The Individual also disclosed his suspicions to an FBI agent. Ex. 7 at 22; Tr. at 126–27. The FBI agent who met with the Individual communicated to the LSO that the Individual was "long on accusations but woefully short on substance that could be followed up on." *Id.* at 24 (reflecting a summary of a phone call between an employee of the LSO and the FBI agent who met with the Individual).

The DOE Psychologist reviewed the Individual's personnel security file, conducted a 3.5-hour clinical interview, and administered the MMPI and Rorschach tests. Ex. 3 at 1. All scales on the MMPI were within the normal range. *Id.* at 4; Tr. at 219. The DOE Psychologist did not rely on the MMPI in diagnosing the Individual. Tr. at 273. The DOE Psychologist determined that the Individual's responses to the Rorschach test reflected inaccurate inferences based on negative ideas which impaired his reasoning. *Id.* at 205–06. For example, the Individual described one inkblot as "kidneys which don't look like kidneys, but they might if they were a different color, but they are not shaped like kidneys . . . or anything, but they look like kidneys because they are wrapped around the spinal cord . . . this thing in the middle . . . they are green so maybe they have cancer or something." Ex. 3 at 5. The Individual's responses to the Rorschach test contributed "a little" to the DOE Psychologist's diagnosis. Tr. at 320.

During the clinical interview, the Individual disclosed behaviors by three colleagues of Chinese descent which he found suspicious. The Individual reported that the Project Head: (1) Prevented him from volunteering his time to resolve issues related to the Project at DOE sites; (2) directed him not to pursue a change to the Project of which he conceived to make it more efficient; (3) falsely denied discussing a change to the Project with another employee; (4) characterized another employee as an "enemy" despite having dined with that employee's mother; (5) dined with an employee working on counterintelligence related matters at another DOE site without inviting the Individual, possibly to elicit counterintelligence-related information from that employee; and (6) travelled early when returning from other DOE sites, which the Individual believed might have

⁴ Although the Individual disputes portions of the OPM investigator's summary of the interview, I assign greater evidentiary weight to the OPM investigator's contemporaneous summary of the conversation than the Individual's recollection of details of an interview that occurred approximately eighteen months prior to the Hearing.

been to facilitate meeting her “handler.” Ex. 3 at 2–3. The Individual disclosed that the Software Leader: (1) asked him to store a camera in his office, which he believed was “very much against the rules” and for the purpose of hiding the camera from another employee; and (2) drew a cartoon depicting her sadness about transferring to another DOE site which the Individual believed might indicate that she was forced to do so by foreign operatives. *Id.* at 3. The Individual disclosed that the Secretary: (1) asked the Individual how the Project was going on one occasion when she passed him in the hall, which he deemed an inappropriate interest; (2) married an employee in the counterintelligence group, which he perceived as a conduit for her to access sensitive information; and (3) was a friend of the Project Head. *Id.* The Individual said that he attempted to disclose this information to a supervisor in 2011, but he was not taken seriously, and did not attempt to disclose the information again until his interview with the OPM investigator because he feared for his life if the Project Head learned that he was “exposing our network” *Id.*⁵ at 3–4.

In his Report, the DOE Psychologist determined that the Individual met the diagnostic criteria for Delusional Disorder, Persecutory Type, Continuous, under the *DSM-5*. Ex. 3 at 6. The DOE Psychologist identified the Individual’s delusion as “the belief that Chinese [] employees have been conspiring to either thwart his work or convey information to the Chinese government for at least 10 years” *Id.* The DOE Psychologist concluded that the Individual’s Delusional Disorder impaired his judgment and reliability, and that the Individual had a poor prognosis for resolving his delusions. *Id.*

The Individual’s Psychiatrist conducted a two-hour interview of the Individual on July 16, 2021. Ex. C at 1. Following the interview, the Individual’s Psychiatrist issued an evaluation in which he concluded that the Individual met the diagnostic criteria for Adjustment Disorder with disturbances of emotion and conduct under the *DSM-5* and noted that the Individual might meet the diagnostic criteria for Autism Spectrum Disorder, Mild. *Id.* at 5–6. The Individual’s Psychiatrist provided a positive prognosis for resolution of the Individual’s emotional and behavioral symptoms following disclosure of his suspicions within six months. *Id.* at 6.

The Individual’s Psychiatrist disagreed with the DOE Psychologist’s diagnosis of Delusional Disorder based on the mathematical improbability of the Individual having a condition with a prevalence of 0.02% in the general population and his opinion that the Individual’s suspicions of his colleagues of Chinese descent were not delusions “through the lens of his personality and cultural norms”⁶ *Id.* In the opinion of the Individual’s Psychiatrist, the Individual’s “hyper

⁵ The Individual denied that he expressed a current fear for his life to the DOE Psychologist. Tr. at 130. The Individual asserted during the Hearing that the DOE Psychologist’s Report mischaracterized his statements in several ways, but he did not provide specific, material examples of mischaracterizations except with respect to his fear for his life and his response to the Rorschach inkblot which he described as looking like a kidney. *Id.* at 130, 150–52. I assign greater weight to the DOE Psychologist’s contemporaneous summary of the interview in the Report than I do to the Individual’s self-serving testimony at the hearing.

⁶ In his evaluation, the Individual’s Psychiatrist stated that the DOE Psychologist’s evaluation “was well performed” and that he disagreed with the DOE Psychologist’s diagnosis based on the differing weight he assigned to cultural considerations and the low prevalence of Delusional Disorder in the general population. Ex. C at 5–6. Following the hearing, the Individual’s Psychiatrist offered a rebuttal opinion in which he asserted that the DOE Psychologist’s evaluation was deficient because he failed to include certain modifiers to the diagnosis of Delusional Disorder and did not sufficiently exclude other potential diagnoses through, among other things, developing the Individual’s family and substance abuse history and ordering laboratory tests. Ex. G at 2. The DOE Psychologist’s Report appears to include

patriotism” and religious beliefs caused him to have “an overwhelming need for conformity, difficulty with ambivalence, and difficulty with shame and guilt” which, when combined with his personality and potential Autism Spectrum Disorder, explained his behavior. *Id.* at 2, 6.

The Individual has not pursued treatment for any psychological condition since receiving the DOE Psychologist’s Report. Tr. at 174. As of the date of the Hearing, the Individual believed that his colleagues of Chinese descent “were doing things that were suspicious. I believe they were doing things that if they were agents, an agent might do. But . . . I didn’t have enough details to conclude that they were agents.” *Id.* at 183. The Individual’s beliefs are based on events he reported observing in 2010 and 2011, and the Individual has not interacted with any of the colleagues about whom he harbors suspicions for approximately ten years. Ex. H at 2.

VI. ANALYSIS

The LSO’s allegations in the SSC raise two distinct security concerns under Guideline I. One concern is based on the DOE Psychologist’s diagnosis of the Individual with Delusional Disorder. *See* Adjudicative Guidelines at ¶ 28(b) (indicating that the opinion of a duly qualified mental health professional may raise security concerns). This security concern is dependent upon the expertise of a mental health professional providing a valid opinion. The other concern is based on the Individual’s statements to the OPM investigator, the FBI, and the DOE Psychologist concerning his suspicions of his colleagues of Chinese descent. *See id.* at ¶ 28(a) (indicating that behavior that casts doubt on an individual’s judgment, stability, reliability, or trustworthiness, including paranoid behavior, may raise security concerns). This security concern addresses whether an individual’s behavior raises security concerns in of itself, and may be assessed from the perspective of a layperson without a formal diagnosis. Critically, “[a] formal diagnosis of a disorder is not required for there to be a concern under [Guideline I].” *Id.* at ¶ 27. Thus, in order to resolve the security concerns asserted by the LSO, the Individual must address both the DOE Psychologist’s diagnosis and the concern that his behavior reflects paranoia that could compromise his judgment, stability, reliability, or trustworthiness independently of the DOE Psychologist’s diagnosis.

The Individual sought to establish that his suspicions of his colleagues of Chinese descent were plausible, that he took appropriate steps to disclose his concerns consistent with what he understood to be his obligations as a security clearance holder, and that the DOE Psychologist misdiagnosed him with Delusional Disorder. An individual can mitigate security concerns under Guideline I if:

- (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

one of the modifiers to the diagnosis – “Continuous” – that the Individual’s Psychiatrist believed was missing, and the Individual’s Psychiatrist did not explain why his opinion as to the appropriateness of the DOE Psychologist’s evaluation methods changed so significantly from when he issued his evaluation. Thus, I have assigned only moderate weight to the concerns expressed in the rebuttal opinion of the Individual’s Psychiatrist as to the diagnostic methods employed by the DOE Psychologist.

- (c) [a] recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government [indicates] that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;
- (d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; or,
- (e) there is no indication of a current problem.

Adjudicative Guidelines at ¶ 29(a)–(e).

The first two mitigating conditions under Guideline I are inapplicable in this case because the Individual provided no evidence that he pursued treatment for any psychological condition. Thus, he cannot show that he is “currently receiving counseling or treatment” or that he has demonstrated “ongoing and consistent compliance with the treatment plan.” *Id.* at ¶ 29(a)–(b). Therefore, this Decision will focus on the remaining three mitigating conditions under Guideline I.

The Individual attempted to show that his suspicions that his coworkers of Chinese descent were acting on behalf of the Chinese government did not present a current problem and that he did not show signs of emotional instability because his suspicions were plausible, his statements were not properly represented in the exhibits submitted by the LSO, and he demonstrated insight into the possibility that his suspicions might not be true. I do not agree. The Individual provided no evidence, other than his own testimony and prior statements, that any of the behaviors by his colleagues that he found suspicious ever occurred.⁷ In the absence of any corroborating evidence of the Individual's claims, I share the opinion of the FBI agent who spoke with the Individual that he is “long on accusations but woefully short on substance” Ex. 7 at 24. Moreover, the Individual's belief that innocuous behaviors by his colleagues (such as the Project Head choosing early flight times when travelling or dining with the mother of a colleague about whom she spoke negatively) provided plausible evidence that they were conducting espionage on behalf of the Chinese government suggests that the Individual's reasoning is so impaired, whether by paranoia or other defects, that his possessing a security clearance poses a significant risk to national security.

I do not credit the Individual's claims that his disclosures of potential espionage were misquoted or misunderstood by the OPM investigator and DOE Psychologist. *Supra* pp. 9–10, nn. 4–5.⁸ Moreover, I am unconvinced that the Individual has developed significant insight into the extraordinary nature of his suspicions. When asked how his perceptions of the events he found

⁷ Several of the Individual's claims involved persons other than the colleagues the Individual suspected of acting on behalf of the Chinese government. For example, the Individual alleged that the Software Leader hid a camera containing photos of “critical infrastructure” from another employee. *Supra* p. 6. The Individual did not submit any information from the employee from whom the camera was allegedly hidden corroborating that the incident even occurred, much less that the camera contained photos of “critical infrastructure” or that the Software Leader asking the Individual to store the camera in his office would have furthered the purposes of espionage.

⁸ Even if I credited the Individual's account of these conversations, the resulting differences would have little impact on my analysis. For example, the Individual's claim that he told the OPM investigator that he would fear for his life if his claims led to the investigation and imprisonment of his colleagues for espionage, and not that he feared for his life at the time of the interview, is a distinction without a difference. In either case, the Individual expressed an irrational fear based on his unjustified suspicions.

suspicious had changed since his interview with the OPM investigator, the Individual observed that “maybe” the Project Head directed him not to volunteer his time on the Project for reasons unrelated to espionage and that it was “plausible” that the Software Leader had obtained a camera from another colleague to collect pictures for a presentation rather than espionage. Tr. at 179. The Individual’s statements equating the possibilities that his colleagues were engaging in routine office behaviors and espionage, and belief as of the date of the hearing that he “didn’t have enough details to conclude that they were agents,” indicate that he is continuing to experience paranoid or other deficient thinking that calls into question his judgment and reliability. As the Individual continues to harbor longstanding irrational suspicions that his colleagues are conducting espionage or other actions on behalf of the Chinese government based on paranoid or other defective thinking, I find that he has not resolved the security concerns related to his disclosure of his suspicions concerning his colleagues to the OPM investigator, FBI, and DOE Psychologist. ¶ 29(d)–(e).

Turning to the security concerns raised by the DOE Psychologist’s diagnosis of the Individual with Delusional Disorder, the Individual sought to show that the DOE Psychologist’s diagnosis was incorrect and the product of inappropriate inferences and diagnostic tools. The Individual’s Psychiatrist testified convincingly that the DOE Psychologist’s inferences from the MMPI test results, which drew conclusions about the Individual’s psychological condition from scales within the normal range solely because they were elevated more than the Individual’s other scales, were of minimal validity.⁹

However, the Individual’s Psychiatrist’s willingness to credit the Individual’s suspicions as plausible based on news coverage that the Chinese government engages in espionage was unconvincing. Moreover, his opinion that the Individual’s conservative cultural practices and patriotism would make him more suspicious than a typical person were not sufficiently developed to satisfactorily explain the Individual’s conduct. The DOE Psychologist opined that the Individual’s religious beliefs and cultural conservatism were not unusual among clearance holders and did not explain his suspicions of his Chinese colleagues. The Individual’s Psychiatrist did not refer to any research or medical literature establishing that it is a cultural characteristic of conservative, devout, patriotic persons to believe that their colleagues of Chinese descent are agents of the Chinese government. In the absence of such supporting evidence, I do not accept that the Individual’s culture explains his paranoid beliefs as might be the case for the example cited by the Individual’s Psychiatrist in which beliefs in witchcraft would not be delusional for members of some traditional cultures.

⁹ The Individual submitted a self-prepared list of citations to several articles calling into question the reliability and validity of the Rorschach test. Ex. I. The Individual also offered the opinion of the Individual’s Psychiatrist that the Rorschach test “is useful for evaluation of thought disorders which can be used in evaluating for schizophrenia, however [it is] not considered diagnostic.” Ex. G at 3. The DOE Psychologist testified that the Rorschach test is generally accepted in the psychological community, but for a small group of dissenters, and DOE submitted a document prepared by one of the DOE Psychologist’s subordinates to that effect. Tr. at 217–19; Ex. 12. Some courts have found expert opinions based on the Rorschach test to meet the *Daubert* standard for admissibility under the Federal Rules of Evidence. See *U.S. v. Ganadonegro*, 805 F.Supp.2d 1188, 1202–03 (D. New Mex. 2011) (accepting an expert’s use of the MMPI and Rorschach tests as reliable methodology). I find that the DOE Psychologist’s opinion and the evidence that the Rorschach test is generally accepted as a clinical tool in the psychological community outweighs the limited evidence offered by the Individual challenging the validity of the Rorschach test.

I found the DOE Psychologist's characterization of the Individual's suspicions as delusions with a poor prognosis for resolution more compelling than the Individual's Psychiatrist's interpretation of the suspicions as plausible interpretations of reality influenced by the Individual's culture and patriotism. I also found the Individual's Psychiatrist's opinion that it was uncertain whether the Individual had harbored his suspicions continuously since 2011, and therefore that his suspicions might not be sufficiently fixed to form a delusion, improbable in light of the Individual's testimony and prior statements that he restrained himself from coming forward with his suspicions out of fear of retaliation or professional consequences. In the face of competing expert opinions, neither of which is so convincing as to render the other implausible, I must resolve any doubts in favor of national security. 10 C.F.R. § 710.7(a). Thus, I find that the Individual has not resolved the security concerns related to the DOE Psychologist's diagnosis of Delusional Disorder. Adjudicative Guidelines at ¶ 29(c)-(d).

While the Individual has raised questions about the DOE Psychologist's diagnosis, merely casting doubt on the accuracy of the diagnosis falls far short of meeting his heavy burden to show that restoring his security clearance would "not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a). The Individual's suspicions that his colleagues were engaged in espionage or other activities at the direction of the Chinese government are uncorroborated and so unlikely to be true that they reflect paranoia or other defective thinking that compromises his judgment, stability, and reliability. The DOE Psychologist's opinion that the Individual suffers from Delusional Disorder, which compromises his judgment, stability, and reliability, while contested by the Individual's Psychiatrist, presents additional concerns. The Individual continues to harbor suspicions of espionage, but he has not demonstrated that his beliefs are based on evidence that would render them reasonable or shown significant insight into the tenuous support for his extraordinary claims. Thus, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline I.

VII. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guideline I of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should not be restored. Either party may seek review of this Decision by an Appeal Panel pursuant to 10 C.F.R. § 710.28.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals