



Individual met the criteria for a diagnosis of Bipolar I Disorder which impaired his judgment, stability, reliability, or trustworthiness. *Id.* at 9.

Due to unresolved security concerns related to the Individual's psychological condition, the LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. In an attachment to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline I (Psychological Conditions) of the Adjudicative Guidelines. Ex. 1.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations by requesting an administrative review hearing. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted ten numbered exhibits (Ex. 1-10) into the record and presented the testimony of the Psychologist. The Individual introduced one lettered exhibit (Ex. A) into the record, and presented the testimony of three witnesses, including himself. The exhibits will be cited in this Decision as "Ex." followed by the appropriate numeric designation. The hearing transcript in the case will be cited as "Tr." followed by the relevant page number.

## **II. Regulatory Standard**

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 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 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) (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 mitigate the security concerns at issue.

### III. Notification Letter and Associated Security Concerns

As previously stated, the Notification Letter included a statement of derogatory information that raised concerns about the Individual's eligibility for access authorization. The information in the letter specifically cites Guideline I of the Adjudicative Guidelines. Guideline I relates to certain emotional, mental and personality conditions that can impair judgment, reliability, or trustworthiness. Adjudicative Guidelines at ¶ 27. An opinion by a duly qualified mental health professional that an individual has a condition that may impair judgment, stability, reliability, or trustworthiness can raise a security concern under Guideline I. *Id.* at ¶ 28(b). As support for citing Guideline I, the LSO cited the Psychologist's Evaluation Report (Report), which concluded that the Individual met the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5) criteria for Bipolar I Disorder, Most Recent Episode Manic. Ex. 1. The LSO additionally cited the Psychologist's opinion that the Individual's Bipolar I Disorder is an emotional, mental, or personality condition that can impair his judgment, stability, reliability, and trustworthiness. *Id.*

### IV. Findings of Fact

In November 2021, the Individual underwent a psychological evaluation with the Psychologist. Ex. 8. Following the evaluation, the Psychologist issued the Report. *Id.* According to the Report, the Individual was diagnosed with Bipolar I Disorder with Manic Episodes in March 2020<sup>2</sup> after he was hospitalized in a psychiatric facility for three days. *Id.* at 6, 8. The Individual reported that, at the time he was hospitalized, he was "experiencing a lot of emotional strain" and a lack of sleep which resulted in him "acting in ways that were out of character." *Id.* at 7. The Report did not list any specific examples regarding the Individual's behavior, but it noted that the Individual reported experiencing "high levels of energy, racing thoughts, and mood swings." *Id.* He was hospitalized again in a psychiatric facility just prior to the evaluation for a period of one week in the fall of 2021. *Id.*

As a result of the diagnosis in connection with his first hospitalization, the Individual was prescribed a mood stabilizer. *Id.* at 8. The Individual reported that, "initially[,] he did not follow all of the advice he was given because he wanted a more natural route and wanted to avoid medication." *Id.* at 8. At the time of the evaluation, however, the Individual reported that he was taking the mood stabilization medication as prescribed<sup>3</sup> and, additionally, was "trying to reduce stress, practice meditation, acknowledge his own self-worth and improve his diet." *Id.* at 7-8. He noted that he experienced "sluggish[ness]" and "mental 'fog'" as side effects of the medication. *Id.* at 7. The Individual additionally reported that, following his second hospitalization, he started attending individual therapy sessions on a bi-weekly basis, but he decided to terminate the sessions

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<sup>2</sup> The Report reflects two conflicting dates on which the Individual was diagnosed with Bipolar I Disorder, March 2020 and November 2020. *See* Ex. 8 at 7-8; *see* Ex. 7. According to the Individual's testimony at the hearing, supported by his medical records, it appears he was diagnosed in May 2020. *See* Tr. at 87; *see* Ex. A.

<sup>3</sup> The Report is silent as to when the Individual began taking the mood stabilization medication as prescribed. *See* Ex. 8.

as “he felt that he was not gaining anything from them” and “did not feel [that therapy] was helping.”<sup>4</sup> *Id.* at 7-8. The Individual noted that the financial burden of paying for the therapy sessions was “a factor” in his decision to discontinue therapy as his church-based health plan did not cover the sessions. *Id.* at 8.

The Psychologist diagnosed the Individual with Bipolar I Disorder, Most Recent Episode Manic. *Id.* at 9. The Psychologist explained that with this condition, the Individual “can experience mood swings and thought related difficulties that can impair his judgment, stability, reliability and trustworthiness.” *Id.* The Psychologist also noted that the Individual’s condition could be treated, but not cured, and that “compliance with medication is one of the best indicators of long-term success.” *Id.*

The Psychologist stated that he “would like to see at least one year of stability on what will become [the Individual’s] final prescribed medication.” *Id.* at 9. The Psychologist noted that the Individual needed “to be able to deal with life stressors that occur during that time without significant impairment.” *Id.* Furthermore, he recommended that the Individual reengage in individual therapy with a licensed professional. *Id.* The Psychologist stated that the Individual “should continue with his prescriber as directed and comply with medication as prescribed.” *Id.* Lastly, the Psychologist concluded that “after a year of stability without significant difficulty, [the Individual could] be reassessed as to whether he is still experiencing any symptoms that might impair his judgment, stability, reliability or trustworthiness.” *Id.*

At the hearing, three witnesses testified on the Individual’s behalf: his coworker (Coworker), his wife (Wife), and the Individual himself. The Coworker testified that he had known the Individual since 2011 and associates with him outside of work “a few times a year.” *Tr.* at 14-15. He stated that he is aware that the Individual has a medical condition that causes him to experience instances where he may not remember, or have control over, what he was doing; however, the Coworker believes the Individual to be a man of integrity, and that the Individual is trustworthy and is a very emotional person. *Id.* at 17-18.

The Wife testified that she has been married to the Individual for six years. *Id.* at 38. She testified that, prior to the Individual being diagnosed with Bipolar I Disorder, she noticed that the Individual was feeling stressed with the onset of the COVID-19 pandemic and the masking mandates. *Id.* at 39. He eventually went to a hospital to seek help. *Id.* She stated that the Individual experienced his first manic episode in May 2020. *Id.* at 42. Due to the Individual’s behavior, at that time, she took him to a hospital. *Id.* at 40. When asked to describe the Individual’s behavior, she explained that the Individual “just wasn’t acting...his normal self and just saying and doing things that weren’t...typical for him.” *Id.* She elaborated, describing him as “really emotional at first,” followed by “having a hard time sleeping,” and “then...it just kind of escalates.” *Id.* at 53. She stated that the Individual is “just more goofy” during a manic episode. *Id.*

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<sup>4</sup> The Report does not include the dates during which the Individual received individual counseling; however, the LOI, completed by the Individual in September 2021, indicates that he sought counseling on a bi-weekly basis from December 2020 to February 2021. *See Ex. 4.*

The Wife testified that, following the hospitalization, the Individual was transferred to a psychiatric center, where he stayed for three days. *Id.* Upon his release, the Individual was referred to a psychologist and a psychiatrist, and he was prescribed medication. *Id.* at 41. She testified that the Individual did not take his medication “right away” because the psychologist “made it sound like it was okay, like [the Individual] could probably manage it without the meds.” *Id.*

The Wife noted that following the first episode, the Individual “did fine” for six months, but then experienced a second episode in November 2020. *Id.* at 41-42, 45. She testified that after the second episode, the Individual began taking his prescribed medication and seeing a psychologist. *Id.* at 42-43. The Wife could not recall if the Individual’s sessions with the psychologist were on a weekly or bi-weekly basis. *Id.* at 42. The Wife added that the Individual experienced a third manic episode in August 2021. *Id.* at 45. She testified that since the August 2021 episode, the Individual has “been managing really well,” with “more level...moods,” and although she does not always observe the Individual taking his medication, she asks him about it, and he does take his medication “all the time.” *Id.* at 46, 48, 51.

The Individual testified there were three instances on which he was hospitalized for mental health issues: May 2020, November 2020, and late August to early September 2021. *Id.* at 61-62, 87. The Individual noted that he never reported the May 2020 hospitalization to the LSO. *Id.* at 60. He testified that, leading up to his first manic episode in May 2020, a COVID-19 mask mandate was instituted, which made him feel stressed, anxious, trapped, and personally attacked. *Id.* at 63, 87-88. He explained that he felt restless and could not sleep for several days. *Id.* He also added that his second child was born, which added stress to his home. *Id.* at 68.

In describing his first episode, the Individual stated that he had not slept for three days. *Id.* at 64. He noted that his mind was not coherent, and he “vaguely remember[s]” the incident that took place. *Id.* at 64. His medical reports reveal that he told his providers that he dressed up as a fictional character, traveled to a gas station, and removed his clothes, convinced he was a prophet from the Bible. Ex. A at 139. At the gas station, he began shouting, wanting to purchase all of the alcohol in the store, and attempting to pay with a four-leaf clover. *Id.* at 37. The medical reports indicate that the gas station clerk called the police, who transported the Individual to the hospital. *Id.* In his testimony, however, the Individual stated that the police took him back to his house, and his family transported him to the hospital for care. Tr. at 64.

The Individual testified that, after his first hospitalization, he tried to improve his condition without the use of medication through his therapy sessions with a psychiatrist. *Id.* at 65-66, 89. He testified that he attended the sessions for “a couple of weeks,” then every couple of months, until he believed the sessions “were getting a little repetitive.” *Id.* at 69, 99. The Individual also added that the “health share program” he was using in lieu of traditional health insurance did not cover mental health services, and he had to pay for the sessions out-of-pocket. *Id.* at 74-75. As such, he began to feel financially stressed. *Id.* at 74.

The Individual's medical reports state, however, that the Individual's psychologist "strongly recommended...that he continue psychiatric medication management." Ex. A at 139. His psychologist reported that the Individual refused medication, "noting he did not have the funds and did not believe in taking medication." *Id.* Furthermore, the psychologist reported, the Individual discontinued therapy due to the financial burden. The provider noted that the Individual declined "to speak with a billing specialist regarding possible payment assistance." *Id.*

The Individual testified that COVID-19 and family related stressors also led to his second manic episode in November 2020. Tr. at 91. At the time, the Individual stated, he realized that he needed medication, and he began complying with all medical treatment recommendations, including meeting with his psychologist. *Id.* at 66-67. Examination of the Individual's medical records reveal, however, that he missed provider appointments in early December 2020, early February 2021, and March 2021. Ex. A at 92, 113, 123. The Individual contacted his providers in April 2021 requesting that they complete a "Return to Duty" form for his employer, but once his providers confirmed that he could return to work, in early May 2021, he failed to attend his May or June 2021 appointments. *Id.* at 49-52. Furthermore, the Individual's medical records are replete with notes from his providers indicating that he is unresponsive to calls and unreachable. *See* Ex. A at 48-50, 92, 113.

Regarding the fall 2021 episode, the Individual testified that he was "talking funny" and "just acting abnormal." Tr. at 93. The Individual's medical records show that following his hospitalization for the fall 2021 episode, he declined therapy as he did not want to have "too many appointments," and less than a month later, he missed an appointment with his psychiatrist.<sup>5</sup> Ex. A at 151, 155. Furthermore, the Individual testified that despite a recommendation from his mental health provider that he engage in a "support group for people with similar conditions," he chose not to do so because it was "optional" and too much of a "time crunch." Tr. at 80.

The Individual testified that he was evaluated by the Psychologist shortly after his fall 2021 hospitalization when he was still attempting to find the right dosage for his medication. *Id.* at 70. The Individual stated that once he received the Psychologist's Report, he did not share it with his mental health care providers because he did not "feel it was completely necessary." *Id.* He additionally testified that he chose not to pursue therapy after the Psychologist recommended it because, in his experience, it became "repetitive." *Id.* at 95. The Individual's medical records submitted as part of Exhibit A contain only one report for the 2022 calendar year, which indicates that, in February 2022, the Individual reported to one of his mental health providers that he was doing well. Ex. A at 180. He noted during the hearing that he now takes his diagnosis "very serious[ly]," and he is seeing his medical providers and taking his prescribed medication. *Id.* at 66.

The Psychologist testified after observing the hearing and listening to the testimony of the witnesses. He testified that there is no cure for Bipolar I Disorder, but that it can be treated "very well," and although the Psychologist stated that he felt that the Individual had "some stability on

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<sup>5</sup> The Individual testified that he now has traditional health insurance through his employer, and the medical bills related to his Bipolar I Disorder are now covered. Tr. at 75.

his current dose of medication,” the length of the Individual’s stability had not yet reached the year that the Psychologist recommended in his Report. *Id.* at 101-102. Furthermore, the Psychologist stated that he was concerned that the Individual had declined to continue with therapy which would provide him with better resources with which to mitigate his stressors. *Id.* Additionally, the Psychologist expressed concern that the Individual was “very compartmentalized” in his approach to his treatment as he did not share the Report with his mental health providers. *Id.* at 102. As such, the Psychologist testified that the conclusions contained in the Report remained unchanged, and the Individual’s Bipolar I Disorder continues to impair his judgment, reliability, and stability. *Id.* at 103, 110.

## **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) and the Adjudicative Guidelines. After due deliberation, I have determined that the Individual has not sufficiently mitigated the security concerns noted by the LSO under Guideline I of the Adjudicative Guidelines. Accordingly, I cannot 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). Therefore, I have determined that the Individual’s security clearance should not be restored. The specific findings that I make in support of this decision are discussed below.

Certain personality conditions can impair judgment, reliability, or trustworthiness. Adjudicative Guidelines at ¶ 27. Voluntary hospitalization as well as an opinion by a duly qualified mental health professional that an individual has a condition that may impair judgment, stability, or trustworthiness can serve as a disqualifying condition for a security clearance. *Id.* at ¶ 28(b), (c). Conditions that could mitigate security concerns under Guideline I include:

- (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;
- (c) a recent opinion by a duly qualified mental health professional that an individual’s previous condition is under control 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 show indications of emotional stability;
- (e) there is no indication of a current problem.

*Id.* at ¶ 29.

Here, after being admitted for hospitalization, the Individual was diagnosed with Bipolar I Disorder, a permanent condition without a cure, by both his own medical providers as well as the Psychologist. *Id.* at ¶ 28(b), (c); *see id.* at ¶ 29 (d). Although the Individual appears to be stable on his current medication dosage, and there does not appear to be an indication of a current problem, the Individual had only been stable for nine months as of the date of the hearing. *See id.* at ¶ 29 (d), (e). This is three months short of the recommendation made by the Psychologist. *See id.* at ¶ 29(c). Furthermore, the Individual is not complying with all treatment recommendations as he consistently declines to engage in the suggested therapy sessions. *See id.* at ¶ 29(a), (b). His medical records demonstrate that he has consistently failed to show for scheduled appointments with his treatment providers, and his own testimony reflects that he has not openly shared information pertaining to his condition with his medical and mental health providers. *See id.* at ¶ 29(a).

Further, I have some doubts as to the credibility of certain testimony provided by the Individual and the Wife. Neither the Individual nor the Wife willingly disclosed the details of the Individual's first manic episode. The Wife stated that the Individual was just "goofy," and the Individual stated that he had only a vague recollection of the incident. However, the medical records the Individual submitted into the record clearly describe his recitation of the events of that day. Further, the Wife testified that, following the first episode, his psychologist "made it sound like it was okay, like [the Individual] could probably manage it without the meds;" however, the medical records reveal that his psychologist reported that she "strongly recommended" that the Individual utilize medication.

Given the Individual's relatively short time of stability on his medication, his failure to comply with all treatment recommendations, the discrepancies and lack of candor in his testimony as well as the limited medical records provided for the 2022 calendar year, I cannot find that the Individual has adequately established that restoring his security clearance will not endanger the common defense and security and that doing so is clearly consistent with the national interest. Thus, I conclude that the Individual has not sufficiently resolved the security concerns set forth in the Notification Letter with respect to Guideline I.



## **VI. Conclusion**

After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I have found that the Individual has not brought forth sufficient evidence to resolve the security concerns associated with Guideline I. Accordingly, I find that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth in 10 C.F.R. § 710.28.

Katie Quintana  
Administrative Judge  
Office of Hearings and Appeals