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

In the Matter of: Personnel Security Hearing )  
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Filing Date: August 12, 2024 ) Case No.: PSH-24-0177  
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Issued: October 29, 2024

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**Administrative Judge Decision**

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Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXX (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."<sup>1</sup> 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 should not be granted access authorization.

**I. BACKGROUND**

On June 19, 2019, the Individual signed and submitted a Questionnaire for National Security Positions (2019 QNSP) in connection with her employment with a federal agency. Exhibit (Ex.) 11 at 116; *see also* Ex. 10 at 21 (indicating that the Individual began her employment with the federal agency in August 2019). On April 2, 2021, the Individual signed and submitted a QNSP (2021 QNSP) as part of seeking a security clearance. Ex. 11 at 38. An investigation following the Individual's submission of the 2021 QNSP revealed that she omitted employment, familial, criminal, and financial delinquency information she was required to disclose on the QNSP. *Id.* at 49–54.

In approximately May 2023, the Individual applied for a position with DOE. Hearing Transcript, OHA Case No. PSH-24-0177 (Tr.) at 28. As part of her application, the Individual submitted a resume in which she claimed to have earned college degrees she had not previously reported on the 2019 QNSP or 2021 QNSP. Ex. 12 at 8. On August 23, 2023, the Individual signed and

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<sup>1</sup> 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.

submitted a QNSP (2023 QNSP) in connection with seeking DOE access authorization. Ex. 10 at 42. The Individual disclosed on the 2023 QNSP that she had been arrested in February 2023, for an unspecified offense, which she represented was the result of false allegations by a neighbor with whom she was in a dispute. *Id.* at 34. A background investigation of the Individual revealed that the Individual had failed to report on the 2023 QNSP several written reprimands from employers, a marijuana-related criminal offense<sup>2</sup> and five other incidents of unlawful conduct, five delinquent financial accounts, and three civil actions she initiated against other parties. *Id.* at 55, 58–66, 70, 84, 86, 103–04. The Individual also provided inaccurate information on a variety of topics, such as her employment, residence, and familial history. *Id.* at 52–57. Additionally, during a background investigation into the Individual’s eligibility for access authorization, the Individual’s daughter alleged to an investigator that the Individual was mentally unstable, dependent on marijuana, and stealing medication from elderly persons with whom the Individual was in contact with the intent to sell the stolen medication. *Id.* at 90.

The LSO subsequently issued the Individual a Notification Letter advising her that it possessed reliable information that created substantial doubt regarding her eligibility for access authorization. Ex. 3 at 1–2. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E, F, H, and J of the Adjudicative Guidelines. *Id.* at 3–17.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 5. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted twelve exhibits (Ex. 1–12). The Individual submitted eleven exhibits (Ex. A–K). The Individual testified on her own behalf. Tr. at 3, 11. The LSO did not call any witnesses to testify.

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

The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as one basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 3 at 4–13.

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Adjudicative Guidelines at ¶ 15. The SSC alleged that the Individual deliberately provided false information and omitted information she was required to disclose on the QNSPs and in interviews with investigators, provided false information regarding her educational attainment in an application for DOE employment, and that the investigation had revealed information showing that the Individual was mentally unstable and manipulative. Ex. 3 at 4–13. The LSO’s allegations

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<sup>2</sup> The LSO cited to two alleged marijuana-related offenses involving the Individual in the SSC – a 2007 citation for possession of marijuana and a 2010 “Conviction for Possession of Marijuana, Selling and Smoking Marijuana.” Ex. 1 at 5. As explained *infra*, I find that these two alleged incidents relate to a single offense. *Infra* p. 12.

that the Individual: (a) deliberately omitted information from personnel security questionnaires;<sup>3</sup> (b) provided false or misleading information to investigators and her employer; (c) engaged in conduct supporting a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, or unwillingness to comply with rules and regulations; and (d) demonstrated a pattern of rule violations justify its invocation of Guideline E. Adjudicative Guidelines at ¶ 16(a)–(d)(3).

The LSO cited Guideline F of the Adjudicative Guidelines as the second basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 3 at 13–15. “Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 18. The SSC cited information contained in credit reports obtained as part of investigations of the Individual showing numerous delinquent debts and charged off accounts. Ex. 3 at 13–15. The LSO’s allegation that the Individual demonstrated an inability or unwillingness to satisfy her debts justifies its invocation of Guideline F. Adjudicative Guidelines at ¶ 19(a)–(b).

The LSO also cited Guideline H (Drug Involvement and Substance Misuse) as a basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 3 at 15–16.

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, can raise questions about an individual’s reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person’s ability or willingness to comply with laws, rules, and regulations.

Adjudicative Guidelines at ¶ 24. The SSC alleged that the Individual was arrested for marijuana-related offenses in 2007 and 2010 and noted the account of the Individual’s daughter who reported to an investigator that the Individual was dependent on marijuana and had stolen medication from elderly persons to sell. Ex. 3 at 15. The LSO’s allegations that the Individual misused and illegally possessed controlled substances, both for personal use and to sell, justify its invocation of Guideline H. Adjudicative Guidelines at ¶ 25(a), (c).

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<sup>3</sup> Some of the alleged omissions listed by the LSO on the SSC do not present security concerns. The 2021 QNSP required the Individual to disclose arrests and citations that occurred in the seven years prior to her completing the QNSP. Ex. 11 at 31–32. However, the LSO listed the omission of three offenses for which the Individual was cited or arrested in 1994, 2007, and 2010 which the Individual did not disclose on the 2021 QNSP. Ex. 3 at 7. As the 2021 QNSP did not require the Individual to disclose these incidents, her failure to do so cannot present security concerns and I do not consider these allegations herein. The 2023 QNSP required the Individual to disclose any offenses involving drugs and other enumerated types of crimes regardless of the date they occurred, but only offenses occurring in the prior seven years for all other non-felony offenses. Ex. 10 at 35. The SSC cited the omission of two offenses – a 1994 criminal contempt offense and a 2016 littering citation – which occurred more than seven years prior to the date on which the Individual completed the 2023 QNSP and which did not involve enumerated conduct that the Individual was required to disclose regardless of when the offense occurred. Ex. 3 at 7. Accordingly, these omissions do not present security concerns, and I do not consider them herein.

The LSO cited Guideline J (Criminal Conduct) of the Adjudicative Guidelines as the final basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 3 at 16–17. “Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.” Adjudicative Guidelines at ¶ 30. The SSC cited numerous offenses allegedly committed by the Individual that were uncovered during the investigations of the Individual's eligibility for access authorization. Ex. 3 at 16–17. The LSO's allegations that the Individual engaged in numerous instances of unlawful conduct justify its invocation of Guideline J. Adjudicative Guidelines at ¶ 31(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) (strong presumption against the issuance of a security clearance).

An 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). An individual is afforded a full opportunity to present evidence supporting his or her eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

### IV. FINDINGS OF FACT

The Individual attended a community college (College A) from 1982 to 1985. Ex. E (indicating in a transcript issued by College A in September 2024 that the Individual's cumulative grade point average was 1.8 and her “Last Standing” was “Academic Warning”). In the fall of 1985, the Individual enrolled in an undergraduate college (College B). Ex. A. The Individual attended College B for two semesters and her cumulative grade point average was 0.69. *Id.*

From 1994 to 2019, the Individual was arrested, cited, or named as a suspect for the following offenses:

Criminal Contempt – November 1994 (Dismissed Due to Conviction on Unrelated Case)<sup>4</sup>

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<sup>4</sup> According to the Individual, the offense to which the contempt charge related was an assault charge based on her spitting on her boyfriend who was a law enforcement officer. Tr. at 41–42.

Unlawful Possession of Marijuana – January 2007 (Pleaded Guilty)  
Barking Dog – December 2007 (Suspected but not cited or arrested)  
Littering – April 2016 (Cited)  
Stalking – November 2019 (Suspected but not arrested)  
Trespass – June 2020<sup>5</sup>

Ex. 10 at 65–66, 84, 86, 103–04; Ex. 11 at 58.

The Individual began working for a federal agency in August 2019. Ex. 10 at 21. In September 2020, a faucet was left running overnight over a closed drain in the facility at which the Individual worked. *Id.* at 74. Overflowing water caused damage to three floors in the building. *Id.* Law enforcement officers interviewed the Individual in connection with the water damage, and the Individual “denied any involvement or knowledge of the incident.” *Id.* at 87. However, surveillance footage showed that the Individual had entered and exited the room in question during the time in which the water was believed to have been turned on. *Id.* at 87–88. After being confronted with the contents of the surveillance footage, the Individual refused to be interviewed by law enforcement. *Id.* at 88. The agency with prosecutorial jurisdiction over the matter declined to pursue charges against the Individual. *Id.*

The Individual subsequently admitted to her supervisor that she was responsible for the water damage and that the incident was an accident. *Id.* at 74. The Individual was issued a letter of reprimand which was subject to removal from the Individual’s personnel file after one year. *Id.*

The Individual submitted the 2021 QNSP on April 2, 2021, and certified that her statements therein were “true, complete, and correct to the best of [her] knowledge and belief and [were] made in good faith.” Ex. 11 at 38. In the 2021 QNSP, the Individual denied having received a written warning from an employer in the prior seven years, having been charged with or cited for any offense in the prior seven years, having become delinquent on any debts or having debts referred to a collection agency in the prior seven years, or having ever been subject to a background investigation by the U.S. government. *Id.* at 26, 31–33, 35. However, information obtained during the investigation of the Individual’s eligibility for a security clearance revealed that she had failed to disclose numerous arrests and citations. *Id.* at 50–51. Regarding having been suspected of stalking in 2019, the Individual represented that she was the victim of harassment from the neighbor who alleged the stalking and that she subsequently prevailed in a civil action against the neighbor for damage to her property. *Id.* at 51; *see also id.* at 67 (indicating that the Individual contacted law enforcement to report a violation of a court order on the same day that she was identified as a suspect to a stalking offense). Additionally, the investigation revealed that the Individual had failed to disclose on the 2021 QNSP a former employer, an immediate family member, and several civil actions in which she was the plaintiff. *Id.* at 49, 51.

A credit report (2021 Credit Report) obtained as part of the investigation also revealed seven medical debts owed by the Individual which had been referred to collections and three consumer debts which had fallen into delinquency or been referred to collections. *Id.* at 84–87. The 2021

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<sup>5</sup> According to the Individual, she received a warning from a law enforcement officer after her son accused her of trespassing when she went to his home without his consent. Tr. at 44–45. The Individual denied ever having appeared in court or receiving any documentation in connection with the alleged offense. *Id.*

Credit Report indicated that the Individual owed a cumulative \$6,449 across the aforementioned ten delinquent accounts. *Id.* During a June 1, 2021, interview with an investigator, the Individual claimed that she had learned of all of the debts listed on the 2021 Credit Report during the process of selling her home and that she had “paid them off all at once on approximately [April 26,] 2021.” *Id.* at 53–54; *see also* Ex. I at 4 (indicating on a settlement statement that the Individual paid \$6,796.33 to a collection agency in connection with the sale of her home). Following the investigation, the Individual was granted a security clearance. Tr. at 46.

In early 2022, the Individual was issued a written warning for lack of candor after a report by the Individual that a coworker, with whom she was in conflict, had punctured her tires was deemed false. Ex. 11 at 63–64. On August 5, 2022, the Individual’s employer counseled the Individual in writing and required the Individual to complete a customer service class after receiving a complaint that the Individual was “short tempered” in the workplace. *Id.* at 70. The written counseling was destroyed by the Individual’s employer after sixty days and it was never placed in her personnel file. *Id.*

In February 2023, the Individual was arrested for communicating threats to her neighbor. Ex. 10 at 83; *see also id.* at 57–58 (indicating in an interview with an investigator that she was in conflict with a neighbor who she believed to be mentally ill, and that the neighbor had been arrested for having threatened her life before accusing her of having threatened his life). The charges against the Individual were voluntarily dismissed at the request of the prosecuting agency in August 2023. *Id.* at 83.

In approximately May 2023, the Individual submitted an application for a position at DOE. Tr. at 28. As part of the application, the Individual submitted a resume in which she represented that she had earned Associate’s degrees from both College A and College B. Ex. 12 at 8. The position description indicated that applicants could qualify for the position based on specialized experience or a Master’s or equivalent graduate degree or two years of education leading to such a degree. Ex. J at 4. The Individual testified at the hearing that she relied on her experience with the prior federal agency beginning in 2019 to qualify for the position with DOE. Tr. at 29.

The Individual submitted the 2023 QNSP on August 8, 2023, and certified that the contents of the 2023 QNSP were “true, complete, and correct to the best of [her] knowledge and belief and [were] made in good faith.” Ex. 10 at 42. In her responses to the 2023 QNSP, the Individual denied: having received a written warning from an employer in the prior seven years; having been arrested or cited for any offense, except the 2023 communicating threats offense, in the prior seven years; having ever been arrested or charged with any drug-related offense; or having fallen into delinquency on any debt or having had a debt referred to collections in the prior seven years. *Id.* at 21–22, 33–35, 39.

A credit report (2023 Credit Report) obtained as part of the investigation into the Individual’s eligibility for access authorization indicated that five of the delinquent debts listed on the 2021 Credit Report remained unresolved and the Individual owed an outstanding balance of \$3,883 on the accounts. *Id.* at 107–09.

On October 20, 2023, the Individual met with an investigator for an interview as part of the investigation into her eligibility for access authorization. *Id.* at 52. The Individual corrected numerous omissions from the QNSP, including her residence history, employment history, marital history, and identities of her relatives. *Id.* at 52–57. The Individual attributed omissions on these topics to lack of information and oversights.<sup>6</sup> *Id.*; *see also, e.g., id.* at 57 (indicating that she did not list her mother and father on the QNSP because she did not have all of the personal information requested on the QNSP); *id.* at 55 (stating that she did not report two former employers because she “forgot”).

The investigator confronted the Individual with the results of the 2023 Credit Report. *Id.* at 59. The Individual denied knowledge of two of the debts referred to collections, asserted that two others related to medical care for her adult daughter, and stated that the fifth concerned a debt she had already paid. *Id.* at 59–60.

Subsequent to the interview with the Individual, the investigator interviewed former supervisors of the Individual and learned of her written warnings in connection with the 2020 water damage, early 2022 false accusation that a coworker had punctured her vehicle’s tires, and August 2022 “short tempered” behavior. *Id.* at 70, 74–75, 81. The investigator also spoke to the Individual’s daughter who told the investigator that the Individual had been arrested for “selling and smoking marijuana,” alleged that the Individual “would take medicine from the elderly and sell it to other people,” claimed that the Individual was “highly dependent on marijuana,” and opined that the Individual was untrustworthy, unreliable, and “mentally unstable and manipulative.” *Id.* at 89–90. The Individual’s daughter told the investigator that she did not communicate with the Individual from 2016 to 2019, renewed communication with the Individual from 2019 to 2020, and had not communicated with the Individual since 2020. *Id.* at 89.

The investigator conducted a second interview with the Individual on February 7, 2024, to confront her with the information obtained during the investigation. *Id.* at 62. The Individual claimed that she did not receive a “reprimand” related to the 2020 water damage incident and therefore did not report it on the 2023 QNSP. *Id.* at 62. The Individual further alleged that she “was not responsible for this incident” and “did not do anything wrong.” *Id.* Regarding the early 2022 accusation against a coworker for puncturing her tire, the Individual denied that she had made a false accusation and asserted that she had not disclosed the written warning she received in connection with the matter because the warning had been withdrawn following an appeal she initiated. *Id.* at 63–64. The investigator did not confront the Individual with information related to the August 2022 written counseling. *See id.* at 62–65.

When confronted with her daughter’s allegations, the Individual admitted that she had been cited for possession of marijuana, which she believed occurred in 2010, after police searched her home pursuant to a warrant in connection with alleged criminal conduct committed by her son. *Id.* at 65. The Individual represented that she put her son’s marijuana “in a drawer to decide what to do with it” and that police had discovered it during the search and attributed it to her. *Id.* The Individual denied that she had ever used or sold marijuana. *Id.* She claimed to have pleaded guilty because she was “technically in possession,” and she claimed to have completed a six-month term of

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<sup>6</sup> For example, the Individual failed to list her two siblings and one of her ex-husbands on the QNSP, all of which she attributed to “oversight” on her part. Ex. 10 at 56–57.

probation in connection with her guilty plea. *Id.* at 65–66. The Individual represented that she is no longer in contact with her son, who was incarcerated, she does not use marijuana or associate with persons who do, and that she is not at risk of a similar event occurring in the future. *Id.* at 66.

At the hearing, the Individual testified that she believed that she had received an Associate’s degree from College A but that she had not earned any degree from College B. Tr. at 12; *see also* Ex. F (containing a statement from the Individual’s brother that he “attended [the Individual’s] college graduation, and saw her receive her Associate’s degree from [College A] in the mid-1980s”). The Individual represented that she had lost the physical diploma that she claimed to have received from College A in the approximately forty years since she received it. Tr. at 12–13. Regarding the resume in which she claimed to have earned degrees at both College A and College B, the Individual testified that her daughter had prepared the resume for her in 2019 in connection with another position and that she had submitted the resume to DOE without having reviewed it carefully. *Id.* at 19–20.

The Individual acknowledged that she had omitted numerous pieces of information she was required to disclose on the QNSPs and asserted that the omissions could have resulted from memory loss that she experienced as a result of a 2017 traffic accident and 2021 stroke. *Id.* at 21–24. The Individual admitted to having used marijuana when she was in college but denied any marijuana usage since that time. *Id.* at 31–32. The Individual represented that her citation for unlawful possession of marijuana was the result of law enforcement finding her son’s marijuana in her home and provided documentation of the incident. *Id.* at 15–16; Ex. C at 4 (copy of the Individual’s 2007 citation for marijuana possession); Ex. D at 6–7 (amended judgment stating the terms of the Individual’s probation and indicating that the charges were dismissed). Regarding her daughter’s claims that the Individual was dependent on marijuana and stealing medication from the elderly, the Individual denied these claims, indicated that she and her daughter were estranged, and represented that her daughter might have made those claims because the daughter has a mental health condition which she does not properly manage with medication. Tr. at 33–36.

Concerning her recent alleged criminal conduct, the Individual testified that her neighbor had falsely accused her of communicating threats against him in retaliation for her having made claims that the neighbor had threatened her which resulted in his being arrested. *Id.* at 36–37. She also asserted that she received the warning for trespassing after she drove to her son’s home to “yell[] at him” when she learned that he had violated workplace rules because she was concerned that he would lose his job. *Id.* at 43–44 (testifying that “[w]hen you see a child doing something wrong, you try to do anything you can to explain to them what they’re doing wrong and why. And so I was doing that.”).

The Individual testified that she had resolved several of her delinquent debts and provided a copy of her credit report to corroborate this testimony. *Id.* at 14; Ex. K (reflecting an October 4, 2024, copy of the Individual’s credit report with one reporting agency showing that she has no debts in collections). The Individual indicated that she believed that one or two of her delinquent debts might not have been resolved, and that she was in communication with an attorney and her ex-husband regarding her responsibility for these debts. Tr. at 25–26.



## V. ANALYSIS

### A. Guideline E

Conditions that could mitigate security concerns under Guideline E include:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) 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;
- (d) 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;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) the information was unsubstantiated or from a source of questionable reliability; and
- (g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

The first mitigating condition is inapplicable to the facts of this case because the Individual was confronted with numerous omissions on her QNSPs by an investigator in both 2021 and 2023. Even when confronted with some of her omissions in the first interview with the investigator during the 2023 investigation, the Individual did not disclose her omissions on the 2023 QNSP related to workplace discipline or her citation for marijuana possession. During the second interview, when she was confronted with having failed to disclose written warnings for the water damage for which she was responsible and for making false accusations against a colleague, the Individual denied responsibility for the incidents and therefore asserted that she was not required to disclose them. For these reasons, the first mitigating condition is inapplicable. *Id.* at ¶ 17(a).

The second mitigating condition is irrelevant to the facts of this case because the Individual did not assert that she refused to disclose information on the QNSPs or to investigators on the advice of counsel or another representative. *Id.* at ¶ 17(b).

The Individual has established a pattern of failing to accept responsibility for mistakes and misconduct in the workplace. From lying to law enforcement officers about her knowledge of the water damage she caused to denying responsibility for the incident to an investigator during the 2023 investigation, the Individual has repeatedly refused to accept accountability for her error even in the face of video evidence showing her to have been responsible. Likewise, the Individual has refused to acknowledge that her allegations against a colleague for puncturing her tire were deemed false, and she continues to deny responsibility for her actions. Rather than be forthcoming about these events, the Individual omitted them from the QNSPs and offered excuses for why she should not have been required to disclose them when confronted by the investigator. For these reasons, I find that the Individual's behaviors calling into question her judgment, trustworthiness, and reliability, and her omissions related to discipline for these behaviors, are not mitigated under the third mitigating condition. *Id.* at ¶ 17(c).

With respect to the LSO's other allegations under Guideline E, the Individual has repeatedly failed to exercise appropriate diligence in completing QNSPs and her application for her position with DOE. It is not apparent that the Individual sought to gain any advantage by omitting details such as her residential history and family members from the QNSPs. Likewise, it is not apparent how the Individual could have gained by falsely claiming Associate's degrees she did not possess on her resume when those credentials would not have qualified her for the DOE position to which she was applying even if she possessed them. However, the Individual's pattern of carelessness in completing the QNSPs and her application to DOE call into significant question her reliability and willingness or ability to comply with rules and regulations. In light of the voluminous nature of the errors and omissions, their frequency and recency, and the Individual's attribution of these errors to unsubstantiated memory issues rather than taking accountability for her mistakes, I conclude that the third mitigating condition is inapplicable. *Id.* at ¶ 17(c).

The fourth mitigating condition is irrelevant to the facts of this case because the Individual has denied wrongdoing and has not pursued counseling. *Id.* at ¶ 17(d). The fifth mitigating condition is also irrelevant because the LSO did not allege that the Individual engaged in behavior that placed her at risk of exploitation, manipulation, or duress. *Id.* at ¶ 17(e).

As discussed in detail *infra*, the Individual's daughter's allegations are unsubstantiated and thus any alleged omissions by the Individual based on her daughter's allegations are mitigated under the sixth mitigating condition. *Id.* at ¶ 17(f). However, there is ample evidence to support the remaining allegations raised by the LSO under Guideline E and thus the sixth mitigating condition has no further applicability. *Id.* The seventh mitigating condition is irrelevant to the facts of this case because the LSO did not allege that the Individual associated with persons engaged in criminal conduct. *Id.* at ¶ 17(g).

For the aforementioned reasons, I find that the Individual has an established a pattern of rule violations, omissions of information she was required to disclose, and failure to accept

responsibility for her actions. I have found that these concerns are not mitigated by any of the mitigating conditions, and thus conclude that the Individual has not resolved the security concerns under Guideline E.

## **B. Guideline F**

Conditions that could mitigate security concerns under Guideline F include:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- (f) the affluence resulted from a legal source of income; and,
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Adjudicative Guidelines at ¶ 20.

The delinquent debts cited by the LSO were all referred to collections in 2021 or earlier; each delinquent debt that appeared on the credit report obtained in connection with the 2023 background investigation of the Individual was also present on the credit report obtained in connection with the 2021 background investigation. *Compare* Ex. 11 at 84–87 *with* Ex. 10 at 107–09. The Individual provided evidence to support her claim that she resolved the significant majority of her delinquent debts in connection with the sale of her home in 2021.<sup>7</sup> She also provided a credit report

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<sup>7</sup> Although the Individual indicated in her testimony that she might have one or two unresolved delinquent debts, there is no indication on the Individual's credit report that this is the case. In light of the absence of derogatory entries on the Individual's credit report, I think it highly probable that the Individual has either resolved the delinquent debts or

in connection with this proceeding showing no accounts in collections. Based on the passage of more than three years without the Individual having fallen into delinquency on any debts, and the evidence that the Individual resolved the debts cited by the LSO, I find that she has mitigated the security concerns under Guideline F pursuant to the first and fourth mitigating conditions. Adjudicative Guidelines at ¶ 20(a), (d).

### **C. Guideline J**

Conditions that could mitigate security concerns under Guideline J include:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) no reliable evidence to support that the individual committed the offense; and
- (d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

*Id.* at ¶ 32.

As an initial matter, I find that the allegations by the Individual's daughter are not reliable. The Individual's daughter was eleven years old at the time of the Individual's 2007 citation for possession for marijuana. Ex. 10 at 29. In light of the Individual's daughter's youth at that time, I find her account of events that occurred at that time less reliable than I would have found the recollections of a more mature person. Notably, the Individual's daughter's representation that the Individual was arrested for selling marijuana was not consistent with the records of the Individual's citation which make no mention of the Individual selling marijuana. *Compare* Ex. 10 at 89 with Ex. C at 4. Furthermore, I note that the Individual and her daughter are estranged and were not in contact, except for about one year, from 2016 to 2023. Ex. 10 at 89. While fraught relationships may provide fertile conditions for the disclosure of derogatory information during an investigation, a person with whom an individual is in conflict may be motivated to exaggerate or invent derogatory information. In this case, in light of the absence of corroborating information to suggest that the Individual has ever sold drugs, stolen medication, or been dependent on marijuana as the Individual's daughter claimed, the limited opportunities for the Individual's daughter to observe such conduct in the prior eight years, the unreliability of the Individual's daughter's recollection of events that occurred when she was a child, and the potential motivation for the Individual's daughter to provide derogatory information about the Individual regardless of its accuracy due to

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the debts are so old that they are no longer eligible to be reported on the Individual's credit report. In either case, the Individual's uncertainty as to whether the proceeds from the sale of her home were used to fully satisfy all of her debts does not lead me to conclude that the debts continue to present security concerns.

their conflict and estrangement, I find that the security concerns presented by the Individual's daughter's allegations are mitigated under the third mitigating condition. Adjudicative Guidelines at ¶ 32(c).

Turning to the Individual's criminal contempt offense and possession of marijuana offense, I find that the passage of many years since each offense occurred is sufficient to mitigate the security concerns presented by the offenses under the first mitigating condition. *Id.* at ¶ 32(a). The Individual's suspected "Barking Dog" offense and littering citation are trivial offenses which, to the extent that they present security concerns at all, are likewise mitigated by the passage of time under the first mitigating condition. *Id.*

The remaining alleged offenses – the Individual's suspected stalking in 2019, trespassing in 2020, and communicating threats offense in 2023 – all arose out of the Individual's conflict with a neighbor or family member. While this pattern casts some doubt on the Individual's judgment and reliability, the Individual was never arrested or cited for any offense in connection with her suspected stalking, the charges against the Individual for communicating threats were voluntarily dismissed by the prosecuting agency, and there is contextual evidence that both allegations were made in retaliation against the Individual for allegations she made to law enforcement about the neighbors in question. Accordingly, I find that the security concerns presented by these alleged offenses are resolved under the third mitigating conditions. *Id.* at ¶ 32(c). With respect to the trespassing offense, the Individual's son is incarcerated, and the Individual is no longer in contact with him. Therefore, I find that the circumstances that resulted in the conflict which led to the Individual being cited for trespassing are no longer present and the conduct is unlikely to occur. Thus, I find the first mitigating condition applicable to the trespassing offense. *Id.* at ¶ 32(a).

For the aforementioned reasons, I find that the Individual has mitigated each of the security concerns asserted by the LSO under Guideline J.

#### **D. Guideline H**

Conditions that may mitigate security concerns under Guideline H include:

- (a) 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 judgment;
- (b) the individual 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, including, but not limited to:
  - (1) disassociation from drug-using associates and contacts;
  - (2) changing or avoiding the environment where drugs were used; and

- (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) 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.

*Id.* at ¶ 26.

As explained *supra*, I find that the allegations made by the Individual's daughter to the investigator in connection with the 2023 investigation are not reliable. Therefore, I find that the allegations from the Individual's daughter do not present security concerns under Guideline H.

The LSO alleged that the Individual was arrested or cited for marijuana-related offenses in 2007 and 2010. Ex. 1 at 5. Upon review of the record, I find no reliable evidence that the 2010 offense alleged by the LSO occurred. The investigative report prepared in connection with the 2023 background investigation of the Individual noted her 2007 citation for possession of marijuana, and the exhibits submitted by the Individual likewise document her 2007 citation and the adjudication of that offense. Ex. 10 at 86; Ex. C at 4; Ex. D at 6–7. However, other than the Individual's statement to an investigator that she was cited for marijuana possession in 2010, I see no indication in the record that the offense occurred. Ex. 10 at 65. Notably, the Individual told the investigator that she was uncertain of the date of her citation and her description of the terms of her probation to the investigator matches the terms of the probation for the 2007 offense that she entered into evidence. *Compare id.* (stating to the investigator that she was sentenced to six months unsupervised probation with monthly drug testing) *with* Ex. D at 7 (indicating that the Individual was sentenced to six months unsupervised probation with monthly drug testing in connection with the 2007 citation for unlawful possession of marijuana). Furthermore, the Individual's accounts of both the 2010 and 2007 offenses referenced her hiding her son's marijuana during a search by law enforcement. *Compare* Ex. 10 at 65 *with* Tr. at 15–16. In light of the lack of evidence that the 2010 offense occurred, and the fact that the Individual's account of the 2010 incident overlapped with the facts of the 2007 citation, I find that the 2010 incident alleged by the LSO did not occur.

Having determined that the allegations made by the Individual's daughter are unreliable, as described under the Guideline J analysis *supra*, and that the 2010 marijuana-related offense alleged by the LSO did not occur, the only remaining drug-related security concerns are those presented by the Individual's 2007 citation for possession of marijuana. The Individual represented that the marijuana she possessed belonged to her son and that she has not used marijuana in several decades. In any case, a single citation for possession of marijuana that occurred more than fifteen years ago happened so long ago that it does not cast doubt on the Individual's current reliability, trustworthiness, or good judgment. Accordingly, I find that the first mitigating condition under Guideline H resolves the security concerns. Adjudicative Guidelines at ¶ 26(a).

For the reasons set forth above, I find that the Individual has resolved the security concerns alleged by the LSO under Guideline H.

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines E, F, H, and J of the Adjudicative Guidelines. After considering all the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has brought forth sufficient evidence to resolve the security concerns under Guidelines F, H, and J, but has not brought forth sufficient evidence to resolve the security concerns under Guideline E. Accordingly, I have determined that the Individual should not be granted access authorization. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick  
Administrative Judge  
Office of Hearings and Appeals