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September 2, 2009

DECISION AND ORDER

OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: February 26, 2009

Case Number: TSO-0716

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization¹ under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As set forth below, it is my decision, based on the evidence and testimony presented in this proceeding, that the individual should not be granted an access authorization at this time.

I. Background

The individual was employed by a Department of Energy (DOE) contractor as a high school summer intern in 1997, and was granted a security clearance at the request of her employer that year. She worked for the contractor every summer until 2001, and her security clearance was then terminated. However, DOE reinstated her clearance in May 2003, when she returned to the internship. In March 2005, the individual contacted the local security office (LSO) and informed the LSO that she had developed an addiction to marijuana and that she had been diagnosed with, and was being treated for, major anxiety. The LSO conducted a personnel security interview (PSI) with the individual in March 2005, but that interview did not resolve the security concerns and DOE suspended the individual's clearance in August 2005. The individual was hired by a DOE contractor located in another state in 2006, after receiving her graduate degree. The new employer requested that DOE grant her a clearance. A routine background investigation uncovered some derogatory information and the LSO conducted PSIs with the individual in March and June 2008. A DOE consultant-psychiatrist evaluated the individual in May 2008. The PSIs did not resolve the concerns and in January 2009, the LSO informed the individual how to proceed to resolve the derogatory information that had created a doubt regarding her eligibility for access authorization. Notification Letter (January 12, 2009). The Notification

¹ Access authorization (or "security clearance") is defined as an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material. 10 C.F.R. § 710.5(a).

Letter stated that the derogatory information regarding the individual falls within the purview of 10 C.F.R. § 710.8 (f), (h), (j) and (l) (Criteria F, H, J and L).

DOE invoked Criterion F because in a 2008 PSI, the individual denied that a fall she suffered in 2005 occurred when she was under influence of drugs, even though she had admitted in a 2005 PSI that she was under the influence of drugs when she fell.² DOE invoked Criterion H based on a diagnosis by a DOE consultant-psychiatrist that the individual suffers from alcohol abuse, anxiety and depression, conditions that cause or may cause significant defects in judgment or reliability.³ In addition, according to the psychiatrist, the individual showed no evidence of rehabilitation or reformation. The individual admitted that she had received counseling for anxiety since the age of 14, and that she had attempted suicide three times in 10 years.

DOE invokes Criterion J when an individual has been or is a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or licensed clinical psychologist as suffering from alcohol abuse or dependence. In this case, a DOE consultant-psychiatrist evaluated the individual in May 2008, and concluded that she suffered from alcohol abuse. With respect to Criterion L, the Notification Letter refers to derogatory information that raises concerns about the individual's honesty, reliability and trustworthiness.⁴ The DOE invoked this criterion because the individual: (1) violated a security acknowledgment by using illegal drugs while holding a clearance; (2) drove a vehicle while under the influence of marijuana; (3) attempted suicide three times; (4) admitted on a Questionnaire for National Security Positions (QNSP) that she left two positions under unfavorable circumstances within the last seven years; and (5) was arrested for criminal domestic violence and negligent use of a firearm in 2005 after an altercation with her live-in boyfriend. She also admitted using marijuana over 200 times between 2004 and 2005, driving and attending classes under the influence of marijuana, and distributing marijuana to friends.

In a letter to DOE Personnel Security on February 2, 2009, the individual exercised her right under Part 710 to request a hearing in this matter. 10 C.F.R. § 710.21(b). The Director of OHA appointed me as Hearing Officer in this case. After conferring with the individual and the appointed DOE counsel, 10 C.F.R. § 710.24, I set a hearing date. At the hearing the individual, who was represented by counsel, testified on her own behalf and

² Criterion F concerns information that the individual has "misrepresented, falsified, or omitted significant information from a Personnel Security Questionnaire or a Questionnaire for Sensitive Positions, Personnel Qualifications Statement, a Personnel Security interview, written or oral statements made in response to an official inquiry on a matter that is relevant to a determination regarding eligibility for DOE access authorization . . ." 10 C.F.R. 710.8 § (f).

³ Criterion H concerns information in the possession of the agency that the individual has an illness or mental condition of a nature which, in the opinion of a psychiatrist or licensed clinical psychologist, causes or may cause a significant defect in judgment or reliability. 10 C.F.R. 710.8 § (h).

⁴ Criterion L is concerned with information in the possession of DOE that indicates that the individual has engaged in unusual conduct or is subject to circumstances which tend to show that she is not honest, reliable, or trustworthy or which furnish reason to believe that she may be subject to pressure, coercion, exploitation, or duress which may cause her to act contrary to the best interests of the national security. 10 C.F.R. § 710.8 (l).

called her mother as a character witness. DOE counsel called the DOE consultant-psychiatrist, four contractor employees and a personnel security specialist as witnesses. The transcript taken at the hearing shall be hereinafter cited as "Tr." Various documents that were submitted by the parties during this proceeding constitute exhibits to the hearing transcript and shall be cited as "Ex." DOE exhibits are numbered, and the individual's exhibits are lettered.

II. Analysis

The applicable regulations state that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable or unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Although it is impossible to predict with absolute certainty an individual's future behavior, as the Hearing Officer I am directed to make a predictive assessment. There is a strong presumption against the granting or restoring of a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of 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).

I have thoroughly considered the record of this proceeding, including the submissions of the parties, the evidence presented and the testimony of the witnesses at the hearing convened in this matter. 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): the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the voluntariness of the participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuance or recurrence; and other relevant and material factors. After due deliberation, I find that the individual's access authorization should not be granted at this time because I cannot conclude that such a grant would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this determination are discussed below.

A. Findings of Fact

At the age of 15, the individual and her mother had an argument that resulted in the individual taking her father's gun and threatening to commit suicide. The mother then sought counseling for the individual. Ex.19 (2005 PSI) at 27; Ex. 6 (March 2008 PSI) at 12, 27. In March 1997, at the age of 16, a Department of Energy (DOE) contractor hired the individual as a summer intern. PSI 2005 at 6. The contractor requested a clearance for the individual, and DOE granted that clearance in May 1997. Ex. 23. The individual signed a security acknowledgment in 1997, acknowledging that the use of drugs could cause her to

lose her security clearance. Ex. 22. In September 1999, the individual enrolled in a local university, met her boyfriend, and continued to work summers at the DOE site. Ex. 21 at 2; Tr. at 155. In August 2002, the individual left her position and went to work with a professor during the summer. PSI 2005 at 7. In May 2003, the individual graduated from college and then returned to work for the contractor in the summer of 2003. PSI 2005 at 8; Ex. 21 at 2.

In August 2003, the individual entered graduate school. Ex. 17 at 2. She experienced severe stress due to a heavy academic workload and problems with her boyfriend. ⁵ PSI 2005 at 9. She had trouble sleeping and felt as if she was “about to have a breakdown.” *Id.* at 9-15. In 2003, the individual attempted suicide by making small cuts on her wrists. PSI 2005 at 72. In November 2003, she visited a doctor who prescribed medicine for her anxiety that made her very lethargic and also caused her to hallucinate. The doctor also recommended counseling, but she only attended one session. March 2008 PSI at 12. A friend told her that marijuana would ease her anxiety without the negative side effects of the prescription drugs and in February 2004, she began to use marijuana. Tr. at 154. In May 2004, she returned to work at the DOE site and continued to smoke marijuana. 2005 PSI at 45. She found that the marijuana did ease her anxiety, but it caused other serious problems in her life. At first she smoked only four times per month, but then increased her usage over the summer of 2004. Between August and December 2004, she was using marijuana three to six times a day and was constantly high. Ex. 16. She stopped attending classes, stopped doing her homework and stopped speaking to her parents. She also began to experience financial troubles because she was supporting herself and her boyfriend, and paying for all of their drug purchases. March 2008 PSI at 14.

The individual returned to school in January 2005. One day she and her boyfriend were high on marijuana, had a fight and locked themselves in the bathroom. She fell in the bathtub and broke several vertebrae, aggravating a congenital back injury. PSI 2005 at 41. A doctor prescribed Valium for the pain. After the accident, she became despondent over her lifestyle, and she took an overdose of Valium one evening in February 2005. 2008 PSI at 35-36; Ex. 10. The individual’s boyfriend found her in their apartment and called her mother, who then sent the individual’s uncle to get her. The uncle found marijuana in the individual’s apartment. *Id.* The individual’s mother brought her back home. PSI 2008 at 8. Her mother also advised her to report her drug and psychological problems to the Employee Assistance Program (EAP) at the DOE site. *Id.*; 2005 PSI at 42-43. According to the individual, she stopped smoking marijuana in February 2005. Tr. at 154. In March 2005, the individual sent an email to the LSO self-reporting her drug use and diagnosis of “major anxiety.” *Id.* at 43; Ex. 20. In April 2005, she enrolled in a seven-week outpatient drug rehabilitation program. *Id.* at 10; Ex. 18.

In the treatment program, the counselors determined that the individual had problems with marijuana dependence, anger management, and low self-esteem. Ex. 11. She indicated that she suffered some physical abuse from her boyfriend, who also used drugs. Ex. 10. The counselors encouraged her to abstain from alcohol and prescribed Zoloft for her

⁵ In the 2005 PSI, the individual stated that she was a college junior in November 2003, but her 2005 QNSP states that she was awarded a bachelor’s degree in May 2003. Ex. 17 at 2. The individual maintained that she has problems recalling exact dates. Tr. at 158, 165; Ex. 4 (Report) at 2.

anxiety. *Id.*; Tr. at 170. Her boyfriend attended some sessions with her. On May 2, 2005, she participated in a PSI. Ex. 19. She admitted using marijuana between 250 and 300 times from February 2004 to March 2005. Ex. 16. Her clearance was suspended later that month. Ex. 13 at 8.

In July 2005, the individual and her boyfriend were very intoxicated and got into a fight at their home. She grabbed a gun and the gun discharged. She was arrested for Criminal Domestic Violence and Negligent Use of a Firearm and taken to the hospital because of her intoxication. Ex. 13 at 7. The charges were later dismissed. She requested an administrative review hearing in August 2005, but then resigned from her job. Ex. 15; 2008; PSI at 22. She received her graduate degree in December 2005. Ex. 17 at 2.

In May 2006, she was hired by her current employer. Ex. 13 at 3. Her new employer requested a clearance. The individual's boyfriend relocated to live with her. As a result of information submitted during a routine background investigation, the LSO requested that the individual participate in a PSI and that a DOE consultant-psychiatrist perform a psychiatric evaluation. During the 2008 PSI, she stated that she continued to drink alcohol moderately, that she consulted via telephone with a life coach who advised her how to deal with stress, and that she now uses exercise, meditation and yoga to relieve stress. PSI 2008 at 46-49.

B. DOE's Security Concerns

Criterion H relates to a security concern that an individual diagnosed with certain emotional conditions can suffer an impairment of her judgment, reliability, or trustworthiness. In this case, the security concern under this criterion is validated by the diagnoses offered by the DOE psychiatrist, a duly qualified mental health professional. See Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, Assistant to the President for National Security Affairs (December 29, 2005) (Guidelines), Guideline I, ¶ 27. Criteria F and L set forth security concerns regarding personal conduct, honesty, and reliability. As regards Criterion F, the individual provided inconsistent answers during a personnel security interview, which raises questions about her reliability and trustworthiness. Under Criterion L, the LSO alleges that the individual broke her written commitment to DOE when she used drugs while holding a security clearance, that she showed questionable judgment when she was arrested in an incident involving a firearm, that she distributed marijuana to friends, and that she drove a car while under the influence of marijuana. The individual has admitted this conduct, and the charges under Criteria F and L are also validated. Alcohol abuse, one of the security concerns of Criterion J, can lead to the exercise of questionable judgment. Guideline G, ¶ 21. A DOE psychiatrist diagnosed the individual with alcohol abuse and therefore the charge under Criterion J is also valid.

C. Hearing Testimony

1. The Individual

The individual explained that she began taking prescription drugs for back pain in 2005, but turned to marijuana when the side effects of the drug caused her problems. She also described how she came to realize that she had a problem with alcohol in the past and that she will no longer use alcohol in the future. Tr. at 149-153.

She also stated that she did not remember the DOE psychiatrist making a recommendation to abstain from alcohol. Tr. at 157. She did not remember the circumstances of her fall. She tried to answer honestly, but has trouble remembering details. *Id.* at 165.

She admitted suffering from anxiety issues and testified that she voluntarily entered counseling in 2005. During counseling in the drug treatment program in 2005, counselors talked about alcohol and encouraged her to abstain. Tr. at 170. She also came to realize that her relationship with her boyfriend was a problem. *Id.* at 168. When she was discharged she worked with a counselor for over a year. *Id.* at 171. The sessions with her current therapist began in April 2009 and she considers the discussions of her behaviors, her relationship with her boyfriend, and her intentions toward alcohol to be very helpful. *Id.* at 150-151. She told the counselor that she is not going to drink alcohol in the future. *Id.* at 162-170.

Finally, the individual described the steps she has taken to improve her life. She was tired of living a lie, so she self-reported her drug problems to DOE. She has very few friends and she and her boyfriend no longer associate with the people with whom they previously used drugs. *Id.* at 172. She and her boyfriend have matured and changed their lives. Her boyfriend attended an inpatient drug treatment program, no longer uses drugs, and is now more responsible. She now realizes the importance of her clearance.

2. Character Witnesses

Four contractor employees testified. One was the individual's peer, and three were managers. All testified that the individual was a good, dependable employee and that they had not noticed any sign of a substance abuse problem. They found her to be reliable and trustworthy. Tr. at 69-99.

The individual's mother testified at the hearing. Tr. at 131-145. She testified that the individual had some problems with alcohol and marijuana, but that she overcame them through treatment. She stated that she considers the individual's boyfriend to be mature, hard working, and responsible now. Her daughter and her boyfriend no longer use drugs or associate with people who use drugs, and have decided to turn their lives around.

3. DOE Consultant-Psychiatrist

The DOE consultant-psychiatrist (psychiatrist) testified at the hearing about his evaluation of the individual in January 2008. Tr. at 18-68.⁶ He reviewed materials provided by DOE,

⁶ The psychiatrist left the hearing after his testimony and did not hear the testimony of any other witnesses.

administered the Minnesota Multiphasic Personality Inventory (MMPI) and also had the individual take a drug and alcohol screen. After an interview, he diagnosed the individual with marijuana dependency in remission, alcohol abuse, anxiety and depression, conditions that can cause a defect in her judgment and reliability. Tr. at 21-22. He was satisfied with her marijuana treatment and concluded that the dependence was in remission, but the alcohol abuse, anxiety and depression were problems that remained. *Id.* at 22. Her MMPI was within normal limits, but a sub-scale of the alcohol and drug problem indicator was elevated. *Id.* at 33-35.

The psychiatrist concluded that the individual had an alcohol problem because she told him that she experienced blackouts and because she could not tell how much alcohol she consumed, nor how often. *Id.* He was worried about her alcohol use because only two months after completing a substance abuse treatment program where she was advised to abstain from alcohol, she became intoxicated, which led to a fight with her boyfriend and a subsequent arrest for discharging a firearm and her hospitalization for intoxication. *Id.* at 23. The psychiatrist was also concerned that the individual continued to use prescription drugs and to drink to excess during the treatment program. Because the individual continued to drink, the psychiatrist found no evidence of reformation or rehabilitation. He concluded that in order to show rehabilitation or reformation from alcohol abuse, the individual should attend an outpatient program and be re-evaluated in two years. *Id.* at 61-62.

As regards the individual's problems with anxiety and depression, the psychiatrist expressed concern about a family history of anxiety (her mother and maternal grandmother) and depression (her mother suffered post-partum depression and her father also suffered from depression), and insufficient evidence of emotional stability. *Id.* at 24-28. The psychiatrist noted that the individual has tried several medications and is treating herself by using yoga, meditation, and herbal remedies to address her mental conditions. The psychiatrist did not consider that treatment sufficient because of her long history of anxiety (since she was a teenager), and he concluded that she needed two years of care on an ongoing basis with a therapist and/or psychiatrist. *Id.* at 26. He was concerned that a possible genetic component to her depression could cause it to recur. *Id.* at 28.

Moreover, the psychiatrist was troubled by the individual's denial of the seriousness of her substance abuse and emotional problems. Prior to the interview, the psychiatrist had reviewed information from a background investigation. During the interview, the individual downplayed the gun incident when she was a teenager and also the 2003 suicide attempt where she cut her wrists. She did not tell the psychiatrist that she was intoxicated when she fired the gun in 2005, but she had previously disclosed her intoxication to the background investigator. *Id.* at 27.⁷ He also determined that she did not have any insight into her alcohol problem and was in denial because she could not tell how much and how often she drank. She told the psychiatrist that she did not think she needed treatment for her anxiety. He questioned her judgment and reliability. *Id.* at 49.

⁷The psychiatrist read the individual's background investigation in preparation for his interview.

To show rehabilitation or reformation, the psychiatrist concluded that the individual must show insight into her problems and must participate in ongoing treatment. Two months of abstinence (at the time of the hearing) was not sufficient, according to the psychiatrist, to demonstrate any stability in her lifestyle because of her history of anxiety, depression and substance abuse since the age of 16 (12 years prior to hearing). *Id* at 31; 62; see Guideline I, ¶ 27.

D. Mitigation of Security Concerns

1. Criterion F – Falsification

DOE alleges that the individual deliberately lied in a March 2008 PSI when she denied that she was under the influence of drugs when she had a serious fall in 2005. The individual contends that she did not deliberately lie, but that she forgot the details of the incident because she has difficulty remembering events in her life.

The decision of a Hearing Officer in a Part 710 case is a predictive assessment, in this case an assessment of the likelihood that the individual will engage in dishonest or untrustworthy behavior in the future similar to any past falsification. My common-sense impression of the individual, formed over the course of this proceeding, is that she is an honest person who truly has a problem recalling dates and events.⁸ She has not lied on any of the written information that she submitted. There are many examples in the record where the individual has stated that she does not remember certain events. See, e.g., Tr. at 158. This event should have been very significant in her life, and it occurred only three years prior to the PSI. However, after reviewing the record, I cannot conclude that the individual deliberately provided false information during her 2008 PSI. This is not our typical case where an individual knowingly maintains a falsification for a period of time. See *Personnel Security Hearing*, OHA Case No. TSO-0708 (June 22, 2009) (finding that an unintentional omission due to memory may mitigate a Criterion F security concern). The honesty she has displayed throughout the proceeding since voluntarily reporting her drug use to the LSO in March 2005, suggests that her provision of false information during the March 2008 PSI was due to a memory lapse. Looking at the totality of the facts in this case, I conclude that the individual has mitigated the Criterion F security concern.

2. Criterion H – Illness or Mental Condition

The individual was diagnosed in May 2008 with alcohol abuse, anxiety and depression, all conditions that can cause problems with judgment and reliability.⁹ The psychiatrist found no evidence of rehabilitation or reformation.

I find that the individual has partially mitigated the security concern regarding her anxiety and depression. She voluntarily entered a treatment program in 2005 (for her marijuana

⁸ I note that although I found the individual's testimony about memory lapses to be credible, such lapses in a young person could be considered unusual conduct that reflects on her reliability.

⁹ The psychiatrist also diagnosed her with marijuana dependence in remission, and testified at the hearing that the individual has been rehabilitated from her marijuana dependence. Tr. at 44.

problem), and then participated in one year of telephone counseling. She testified that she learned new methods to control her stress, and this is supported by the results of a test administered by her therapist in 2009 that found “minimum depressive signs.” Ex. S.

Nonetheless, the DOE consultant-psychiatrist persuasively explained why he believes the individual needs more time in treatment. At the time of the hearing, she had only been in therapy for two months, during which time she attended only four sessions. She has not experienced the long-term consistent care recommended by the psychiatrist as a requirement for an individual with such a long family and personal history of emotional problems. The record demonstrates that her previous emotional problems were not temporary, and they recurred over a 12-year period when the individual had minimal treatment. Further, she has not presented any testimony or documents to support a low probability of recurrence of the emotional problems that she has experienced in the past. Guideline I, ¶ 29. Thus, I conclude that the individual has not mitigated the Criterion H security concerns in the Notification Letter.

3. Criterion J – Alcohol Abuse

The individual was diagnosed with alcohol abuse without evidence of rehabilitation or reformation by the DOE consultant-psychiatrist. The DOE psychiatrist was concerned that even after attending a seven-week substance abuse program in 2005 which recommended that she abstain from alcohol, the individual continued to drink as evidenced by the fact that she was extremely intoxicated when arrested two months after her discharge from the treatment program. Further, even though the psychiatrist recommended in 2008 that she abstain from alcohol, she continued to drink alcohol until April 2009. In 2009, the individual's therapist administered the Michigan Alcohol Screening Test (MAST). The therapist concluded that “[t]he MAST did indicate a higher probability of an alcohol problem in the future if she did not address the issue.” Ex. S.

It is in the individual's favor that she decided to stop drinking alcohol in April 2009. She also now admits an alcohol problem and no longer displays the level of denial observed by the DOE psychiatrist in 2008. However, she is not attending any current alcohol treatment program, and had only been abstinent for two months at the time of the hearing. She also has a history of treatment and relapse (May 2005 treatment program followed by July 2005 arrest while intoxicated). Guideline G, ¶ 23(c). Further, the individual's own therapist has issued a cautionary statement regarding future alcohol problems if the individual does not address her problems. Thus, the individual has not received a favorable prognosis from either mental health professional. Guideline G, ¶ 23(d). Therefore, I conclude that she has not mitigated the Criterion J concerns regarding the diagnosis of alcohol abuse.

4. Criterion L- Unusual Conduct

The Notification Letter mentioned several items of unusual conduct that raise a security concern. They are: (1) violation of a security acknowledgment; (2) other marijuana-related unusual conduct; (3) suicide attempts; and (4) an arrest involving a firearm. First, I find some partial mitigation of the individual's violation of the security acknowledgment that she signed in 1997. The individual's age and maturity are factors since she was a college

student when these actions occurred. Although the individual broke a commitment to DOE, she came forward voluntarily and reported her actions to the LSO. There is no evidence in the record that DOE would have discovered this information by any other means. In addition, the Letter lists other items of unusual conduct such as her drug use, driving a vehicle under the influence of marijuana, attending classes while under the influence of marijuana and leaving employment under unfavorable circumstances. All of these events were related to her drug use. However, the individual has not used marijuana since April 2005, over four years prior to the hearing. Further, the DOE psychiatrist concluded that her marijuana dependence is in remission. Thus, she has mitigated these items of unusual conduct by taking positive steps to alleviate the circumstances that caused this untrustworthy behavior, and I find that this drug-related unusual conduct is unlikely to recur. Guideline E, ¶ 17(d).

However, a review of the record supports a conclusion that the individual has not been rehabilitated or reformed from the anxiety and depression that caused her three suicide attempts. The DOE psychiatrist persuasively testified that the individual needs ongoing treatment for these conditions, and that her four sessions with a therapist at the time of the hearing were insufficient. The security concern related to her suicide attempts has not been mitigated.

Finally, the individual was arrested on two charges in an incident involving firearms in July 2005, while she was intoxicated. Her conduct involved questionable judgment. In addition, this occurred only two months after she had completed a two-month substance abuse program which had advised her to abstain from alcohol. Four years have passed, and the individual has not sought or received adequate alcohol treatment. Therefore, I find that she has not mitigated the security concerns of Criterion L.

III. Conclusion

As explained in this Decision, I find that the DOE Operations Office properly invoked 10 C.F.R. § 710.8 (f), (h), (j) and (l). After carefully reviewing the testimonial and documentary evidence in a common-sense manner, I find that the individual has presented adequate mitigating factors for the Criterion F concern. She has not, however, mitigated the security concerns advanced under Criteria H, J, or L. Thus, in view of the criteria and the record before me, I cannot find that granting the individual's access authorization would not endanger the common defense and security and would be consistent with the national interest. Accordingly, I find that the individual's access authorization should not be granted at this time. Any party may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Valerie Vance Adeyeye
Hearing Officer
Office of Hearings and Appeals

Date: September 2, 2009

