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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 18, 2014 )  
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**Case No.: PSH-14-0080**

**Issued: November 17, 2014**

**Administrative Judge Decision**

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXX X. XXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, “Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.”<sup>1</sup> For the reasons set forth below, I conclude that the Individual’s security clearance should not be restored at this time.<sup>2</sup>

**I. BACKGROUND**

During a routine reinvestigation of the Individual, a Local Security Office (LSO) obtained information that raised security concerns. In order to address those concerns, the LSO conducted a Personnel Security Interview (PSI) of the Individual on March 12, 2014, and sponsored a forensic psychological examination of the Individual which occurred on May 12, 2014. Because the PSI and forensic psychological examination did not resolve these concerns, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual

<sup>1</sup> An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will also be referred to in this Decision as a security clearance.

<sup>2</sup> Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.oha.doe.gov>. The text of a cited decision may be accessed by entering the case number of the decision in the search engine located at <http://www.oha.doe.gov/search.htm>.

informing her that she was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding her eligibility for a security clearance. *See* 10 C.F.R. § 710.21. The Individual requested a hearing and the LSO forwarded the Individual's request to the OHA. The Director of OHA appointed me as the Administrative Judge in this matter on August 26, 2014.

At the hearing I convened pursuant to 10 C.F.R. § 710.25(e) and (g), I took testimony from the Individual, her supervisor, her boyfriend, her coworker, and a DOE consultant psychologist (the Psychologist). *See* Transcript of Hearing, Case No. PSH-14-0080 (hereinafter cited as "Tr."). The LSO submitted eight exhibits, marked as Exhibits 1 through 8, while the Individual submitted five exhibits, which are marked as Exhibits A through E.

## **II. THE NOTIFICATION LETTER AND THE DOE'S SECURITY CONCERNS**

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. That information pertains to paragraphs (f), (h), and (l) of the criteria for eligibility for access to classified matter or special nuclear material set forth at 10 C.F.R. § 710.8.

Criterion (f) refers to information indicating that the Individual: "Deliberately misrepresented, falsified, or omitted significant information from a Personnel Security Questionnaire, a Questionnaire for Sensitive (or National Security) Positions, a personnel qualifications statement, a personnel security interview, written or oral statements made in response to official inquiry on a matter that is relevant to a determination regarding eligibility for DOE access authorization, or proceedings conducted pursuant to § 710.20 through § 710.31." 10 C.F.R. § 710.8(f). Specifically, the Notification Letter alleges that the Individual failed to report nine outstanding collections accounts, totaling \$3,132, and one "charge off" account for \$17,957, from a Questionnaire for National Security Positions (QNSP) she submitted to the LSO on October 29, 2014.

These circumstances adequately justify the DOE's invocation of criterion (f), and raise significant security concerns. "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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process." Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, issued on December 29, 2005, by the Assistant to the President for National Security Affairs, The White House (Adjudicative Guidelines) Guideline E at ¶ 15. Under the Adjudicative Guidelines, a deliberate omission or concealment of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations or determine security clearance eligibility or trustworthiness could raise a security concern and may be disqualifying. Adjudicative Guideline E at ¶ 16(a).

Criterion (h) refers to information indicating 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). Specifically, the Notification Letter alleges that the Individual has been diagnosed by a psychologist with Gambling Disorder (under the American Psychiatric Association’s Diagnostic and Statistical Manual-Fifth Edition, (DSM-5). These circumstances adequately justify the DOE’s invocation of Criterion (h), and raise significant security concerns. An opinion by a duly qualified mental health professional that an individual has a condition that may impair judgment, reliability, or trustworthiness; raises a security concern under Adjudicative Guideline I at ¶¶ 27 and 28(b).

Criterion (l) refers to information indicating that the Individual has: “Engaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy; or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security. Such conduct or circumstances include, but are not limited to, criminal behavior, a pattern of financial irresponsibility, conflicting allegiances, or violation of any commitment or promise upon which DOE previously relied to favorably resolve an issue of access authorization eligibility.” 10 C.F.R. § 710.8(l). Specifically, the Notification Letter alleges that the Individual has exhibited a pattern of financial irresponsibility. On November 5, 2013, the LSO obtained a credit report of the Individual. Exhibit 6. This credit report shows that, at the time she submitted her QNSP, the Individual had nine outstanding collections accounts, totaling \$3,132, and one “charge off” account for \$17,957. Exhibit 6. These circumstances adequately justify the DOE’s invocation of Criterion (l), and raise significant security concerns. The Adjudicative Guidelines provide: “failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.” Adjudicative Guideline F at ¶ 18. An inability or unwillingness to satisfy debts and history of not meeting financial obligations could raise a security concern and may be disqualifying. Exhibit 8 at ¶ 19(a) and (c). The Adjudicative Guidelines further provide: “Compulsive gambling is a concern as it may lead to financial crimes including espionage.” Adjudicative Guideline F at ¶ 18. Financial problems that are linked to gambling problems are of particular concern. Adjudicative Guideline F at ¶ 19(f).

### **III. REGULATORY STANDARDS**

The Administrative Judge’s role in this proceeding is to evaluate the evidence presented by the agency and the Individual, and to render a decision based on that evidence. See 10 C.F.R. § 710.27(a). The regulations state that “[t]he decision as to access authorization is a comprehensive, common sense judgment, made after consideration of all the relevant information, favorable and 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). In rendering this opinion, I have considered the following factors: the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, including knowledgeable participation; the frequency and recency of the conduct; the Individual’s age and maturity at the time of the conduct; the voluntariness of the Individual’s

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 continuation or recurrence; and other relevant and material factors. See 10 C.F.R. §§ 710.7(c), 710.27(a). The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

#### **IV. FINDINGS OF FACT AND ANALYSIS**

##### **Criterion F**

On October 29, 2013, the Individual completed and submitted a QNSP to the LSO. The QNSP requires that the submitter report any collection actions against them, or any accounts that have been “charged off” by their debtors, during the previous seven years. Exhibit 7 at 31. The Individual reported that she had no collection actions taken against her during the previous seven years, and that she had not had any accounts “charged off” by her debtors during the previous seven years. Exhibit 7 at 31.

The LSO conducted a PSI of the Individual on March 12, 2014. Exhibit 8. During this PSI, the Individual was confronted with a credit report showing that she had nine outstanding collections accounts, totaling \$3,132, and one “charge off” account for \$17,957. The Individual then acknowledged these debts. Exhibit 8 at 125, 141-142, 148-50, 157-159, 165-169, 171-173. The Individual acknowledged that she should have reported the collection actions and charge off account on her QNSP. Exhibit 8 at 196-199. She attributed her failure to report the collection actions and charge off account on her QNSP to “denial.” Exhibit 8 at 199. She further stated that she did not report the collection actions and charge off account on her QNSP because “I purposely did not recall it.” Exhibit 8 at 201. She claimed she was not lying because: “it wasn’t with that intention.” Exhibit 8 at 206.

At the hearing, the Individual testified that she failed to disclose her outstanding debts in her October 29, 2013, QNSP because she was “in denial . . . and just didn’t want to think about it.” Tr. at 35. She claimed that she was not trying to hide anything. *Id.* She further attributed her failure to disclose her outstanding debts to her Gambling Disorder.

I find that the Individual has not resolved the security concerns arising from her deliberate omission of information from her October 29, 2013, QNSP that would have revealed her financial issues. The relevant conditions under Adjudicative Guidelines that may serve to mitigate security concerns raised by an individual’s deliberate falsification are: (1) that “the individual made prompt, good-faith effort to correct the omission, concealment, or falsification before being confronted with the facts,” and (2) “that the offense is so minor, or so much time has passed, or the behavior is so infrequent, 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[.]” Adjudicative Guidelines, Guideline E, ¶ 17. The Individual, however, has brought forward no evidence of any efforts on her part to correct the omissions on the QNSP, until she was confronted with her credit report during the PSI. Nor can I conclude that the Individual’s rather recent omission was minor, since it was clearly intended to hide the

Individual's financial difficulties and gambling problem from the LSO. I therefore find that the Individual has not resolved the security concerns raised under Criterion F.

### **Criterion H**

At the request of the LSO, the Psychologist evaluated the Individual on May 12, 2014. Exhibit 4 at 1. In addition to conducting a 2.25-hour forensic psychological interview of the Individual, the Psychologist reviewed the Individual's personnel security file and administered a psychological test to the Individual (The Minnesota Multiphasic Personality Inventory-2-RF). Exhibit 4 at 1. After completing his evaluation of the Individual, the Psychologist issued a report (the Psychological Report) on May 13, 2014, in which he found that the Individual has a mental condition, Gambling Disorder (persistent and mild in severity), under the DSM-5. Exhibit 4 at 6. The Psychologist further opined that the Individual's Gambling Disorder is a mental illness which causes, or may cause, a significant defect in judgment or reliability. Exhibit 4 at 6. The Psychologist opined that in order to be reformed or rehabilitated from her Gambling Disorder, the Individual must abstain from gambling for one year, and should undergo counseling with an addiction specialist who focuses on helping her develop coping skills other than gambling and eating. The Psychologist further opined that: "An additional indication of her possible change will be if her financial obligations are satisfied in a timely manner over a period of several months." Exhibit 8 at 6.

During her hearing testimony, the Individual acknowledged that she has a Gambling Disorder,<sup>3</sup> and testified that she has been undergoing treatment for her Gambling Disorder.<sup>4</sup> Tr. at 36, 56. She began attending classes and group therapy sessions in July 2014. Tr. at 40. She also receives weekly one-on-one counseling. Tr. at 40, 46. Her treatment program is scheduled to last for one year (until July 2015). Tr. at 40, 59. She testified that gambling was a coping mechanism she used to escape stress and the pain from the loss of her son and an abusive marriage, and that her treatment program has taught her some coping mechanisms: she has learned to talk more, and call a friend more and to re-engage in pastimes she once enjoyed like reading and spending time with her family.<sup>5</sup> Tr. at 38-39, 41. She testified that she has not experienced any urges to gamble. Tr. at 41. The Individual admitted that she has not had herself banned from the casinos and still goes to casinos to eat and see shows. Tr. at 45-46. However, the Individual testified that she is not gambling. Tr. at 53. This testimony was corroborated by the testimony of her boyfriend at the hearing, who testified that she has not gambled since June 2013. Tr. at 28-31. The Individual testified that she intends to permanently abstain from gambling. Tr. at 61.

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<sup>3</sup> The Individual's acknowledgement of her Gambling Disorder is a significant sign of her progress. During her March 12, 2014, PSI, she admitted that her gambling was a contributing factor to her financial issues, but denied that she was "addicted to gambling," and that gambling had negatively affected her life. Exhibit 8 at 188, 210, 214.

<sup>4</sup> The Individual has corroborated her testimony that she has receiving treatment for her gambling disorder by submitting Exhibit A, a letter from her counselor, and Exhibit B, a record of her payments for treatment services.

<sup>5</sup> During her PSI, he Individual admitted that she began gambling after the death of her son. Exhibit 8 at 81. The Individual admitted that she would gamble two or three times a month, spending from \$100 to \$800 on each occasion. Exhibit 8 at 81-83. She estimated that she was gambling \$1,200 or \$1,300 a month. Exhibit 8 at 93, 186.

At the hearing, the Psychologist listened to the testimony of each of the other witnesses before he testified. The Psychologist testified that the Individual now understands that she is addicted to gambling and intends to abstain from gambling. Tr. at 71. The Psychologist, however, testified that she needs to abstain from gambling for a full year before her long term prognosis would become favorable. Tr. at 71. The Psychologist testified that the Individual does not yet have the tools to avoid returning to gambling. Tr. at 72. The Psychologist testified that it was too early a point in the Individual's treatment to determine her long-term prognosis. Tr. at 73. The Psychologist testified that "the Gambling Disorder and the dishonesty are symptoms of the same thing, not wanting to face the reality of things." Tr. at 75.

After carefully considering all the evidence, I find that the Individual has not yet shown that she is sufficiently reformed or rehabilitated from her Gambling Disorder. At the time of the hearing, she had only abstained from gambling for five months, and was only four months into a twelve month treatment program. For these reasons, I find that the security concerns raised under Criterion H remain unresolved. The Individual has not offered any expert testimony to the contrary. The Individual has, however, made some important strides, including recognizing the need to address her Gambling Disorder, abstaining from gambling, and obtaining professional treatment for her Gambling Disorder.

### **Criterion L**

The Individual testified that she has satisfied all of her outstanding collection accounts, except one. Tr. at 49 -50. The outstanding charge off account arose from a line of credit (or second mortgage) on her home. Tr. at 50-51. The Individual testified that she is currently in negotiations with the charge off creditor to settle that debt. Tr. at 51-52, 62. She has submitted Exhibit D, a letter from this creditor, corroborating this testimony.

I am impressed by the evidence in the record showing that the Individual has resolved all of her outstanding financial obligations with one exception, and is engaged in active negotiations to resolve that remaining debt. Under the Administrative Guidelines, evidence showing that an individual has: (1) "received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control," or (2) "initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," can mitigate security concerns arising from financial considerations. Adjudicative Guideline F at ¶ 20(c) and (d). Both of these factors are present in the instant case, to some extent. However, the record shows that the Individual's financial issues were a direct result of her Gambling Disorder. Until I can be confident that she has been reformed or rehabilitated from her Gambling Disorder, I cannot be confident that her financial situation will not again deteriorate to the point which raises a security concern. For that reason, I find that the security concerns raised under Criterion L remain unresolved.

## **VI. CONCLUSION**

For the reasons set forth above, I conclude that the LSO properly invoked Criteria F, H and L. After considering all the evidence, both favorable and unfavorable, in a common sense manner, I

find that Individual has not sufficiently mitigated the Criteria F, H, and L security concerns. Accordingly, the Individual has not demonstrated that restoring her security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, the Individual's security clearance should not be restored at this time. The Individual may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine  
Administrative Judge  
Office of Hearings and Appeals

Date: November 17, 2014