

***The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.**

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

In the Matter of: Personnel Security Hearing)

Filing Date: March 27, 2015)

_____)

Case No.: PSH-15-0021

Issued: July 17, 2015

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.”¹ For the reasons set forth below, I conclude that the Individual’s security clearance should not be restored at this time.²

I. BACKGROUND

On August 26, 2014, the Local Security Office (LSO) received an incident report concerning the Individual. In order to address those concerns, the LSO conducted a Personnel Security Interview (PSI) of the Individual on September 23, 2014, and sponsored a forensic psychological examination of the Individual which occurred on December 5, 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 informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his eligibility for a security clearance. *See* 10 C.F.R. § 710.21. The

¹ 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.

² Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.doe.gov/OHA>.

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 March 27, 2015.

At the hearing I convened pursuant to 10 C.F.R. § 710.25(e) and (g), I took testimony from the Individual, his spouse, his treating psychologist (the Treating Psychologist), an investigator (the Investigator), a human resources specialist (the Employee Relations Specialist), a psychologist serving as an expert witness on behalf of the Individual (the Individual's Expert), two of the Individual's supervisors, and a DOE consultant psychologist (the DOE Psychologist). *See* Transcript of Hearing, Case No. PSH-15-0021 (hereinafter cited as "Tr."). The LSO submitted seven exhibits, marked as Exhibits 1 through 7, while the Individual submitted three exhibits, which are marked as Exhibits A through C.

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 his eligibility for a security clearance. That information pertains to paragraphs (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 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 "a strong desire to view pornography [that] has led to behaviors over several years that reflect defects in his judgment or reliability." Summary of Security Concerns at ¶ I. These circumstances adequately justify the DOE's invocation of Criterion H, and raise significant security concerns. The 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) state that 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." Specifically, the Notification Letter, alleges that the Individual failed a polygraph administered to him on August 7, 2014, "because he lied and was trying to cover up misuse of a computer system by viewing pornographic material during work hours," and "deliberately perform[ed] searches with the intent to see sexually explicit adult content images during daily breaks or when bored at work . . ." Summary of Security Concerns at ¶ II.A and II.B. It is well settled that "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." Adjudicative Guideline E at ¶ 15. A pattern of compulsive, self-destructive, or high-risk sexual

behavior that the person is unable to stop can also raise a security concern about an individual and may be disqualifying. Adjudicative Guideline D at ¶ 13(b). Similarly, “noncompliance with rules, procedures, guidelines or regulations pertaining to information technology systems may raise security concerns about an individual's reliability and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information.” Adjudicative Guideline M at ¶ 39. Finally, unauthorized use of a government or other information technology system could raise a security concern about an individual and may be disqualifying. Adjudicative Guideline M at ¶ 40(e).

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

On August 7, 2014, the Individual was the subject of a random polygraph examination, which he apparently “failed.”³ The polygraph examination had produced information indicating that the Individual had misused government property, viewed pornography on government property during working hours, and circumvented his employer's computer security. The Individual reported this failure of his polygraph examination to his employer's Security Inquiries Team (SIT) on August 8, 2014. Exhibit 6 at 3.

A. The SIT Investigation

SIT investigators conducted an investigation into whether the Individual had misused government property, viewed pornography on government property during working hours, or

³ During his PSI, the Individual stated that: “to the best of my knowledge on the polygraph, the question that I failed and I don't know because they don't really tell you the results, was have you ever done damage to a U.S. secured or done damage to a U.S. security system with the intent of damaging national security or something like that.” Exhibit 7 at 20.

circumvented his employer's computer security.⁴ Exhibit 6 at 3. SIT investigators interviewed the Individual on August 8, 2014. Exhibit 6 at 3. After conducting their investigation, the SIT investigators issued a report (the Investigation Report) on August 22, 2014. The SIT investigators concluded that the Individual is an "employee who failed a DOE mandated polygraph and subsequently admitted to viewing sexually explicit information during work hours while using government resources. He was able to accomplish this activity by modifying his computer security settings and then browsing in a manner which left no trace of the sites he visited." Exhibit 6 at 3-4. The SIT Investigators further concluded that the Individual had not circumvented his employer's firewall. Exhibit 6 at 4. The SIT provided a copy of the Investigation Report to the Individual's employer's Human Resources Department.⁵ Exhibit 6 at 4.

On August 24, 2014, the Individual's employer provided a copy of the Investigation Report to the LSO. Exhibit 6 at 1.

B. The September 23, 2014, PSI

On September 23, 2014, the LSO conducted a PSI of the Individual. During this PSI, the Individual repeatedly stated that he is "addicted to pornography" and admitted viewing pornography on an almost daily basis at his home. Exhibit 7 at 19, 31, 58, 61-63. 80. At one point he stated that he was addicted to pornography in his "private life," and then he stated: "However, addicted to pornography in my private life, does not mean that I've done that behavior with my work computer, which I have not." Exhibit 7 at 19. The Individual stated that he was unable to stop viewing pornography and described it as "more of a compulsion than a desire." Exhibit 7 at 65. The Individual stated: "I don't feel good about myself when I view pornography. I do it anyway. I don't feel I can stop." Exhibit 7 at 65-66. The Individual admitted that he masturbates while using pornography; however, he claimed that he had never masturbated at work. Exhibit 7 at 75, 81. He views pornography on his home computer, which is located in his minor son's bedroom. Exhibit 7 at 63. He reported that he used pornography as "an escape." Exhibit 7 at 84.

⁴ One of the SIT Investigators (the Investigator) who had been part of the team that conducted the SIT's investigation and prepared the SIT Report, testified at the hearing, at the request of the Individual. The Investigator testified that SIT had conducted its investigation after the Individual had admitted misusing a government computer. Tr. at 64. He further testified that the SIT also investigated whether the Individual had viewed sexually explicit material on his government computer and whether he had bypassed his employer's computer security. Tr. at 64. The SIT's investigation revealed that the Individual had viewed sexually explicit materials on his government computer. Tr. at 65. However, the SIT's investigation did not find that the Individual had bypassed his employer's computer security. Tr. at 65. The SIT's findings that the Individual had viewed sexually explicit materials on his government computer were based upon the Individual's own admissions. Tr. at 69, 71.

⁵ The Employee Relations Specialist testified at the hearing at the request of the Individual. She testified that she had received a copy of the SIT Report. Her responsibility was to consider SIT's findings and then determine what, if any, corrective or disciplinary action was warranted. Tr. at 80-81. She reviewed the SIT Report, gathered some additional information, spoke to the Individual personally, and decided that the Individual's conduct warranted a written counseling, which is fairly low on his employer's scale of disciplinary action. Tr. at 81. She believed that the Individual viewed partial nudity, not pornography at work. Tr. at 84. The Individual further informed her that if he observed any nudity, he would immediately close his web browser. Tr. at 84-85.

The Individual also admitted that since 1993, he had intentionally viewed sexually explicit images dozens of times on his government computer while at work.⁶ Exhibit 7 at 13-14, 16, 40, 42. When asked why he searched for sexually explicit images at work, he stated: "Mm, stupidity and poor judgment, um, but just because I was bored at that moment and needed a break." Exhibit 7 at 14. He further stated: "My intent was a couple of different things. N - n -- none of them honorable. My intent was to relieve the boredom. My intent was to see what came up. And my intent was to see what would get past [his employer's] filters." Exhibit 7 at 39. The Individual admitted that he knew that he was violating his employer's policy by searching for sexually explicit web images and that it was wrong to do so. Exhibit 7 at 15-16. The Individual expressed remorse for his actions by stating "I am ashamed and humiliated by my behavior which was the misuse by doing the inappropriate web searches or trying to view sexually explicit material with my computer and as a result of the shame on that, I failed on the polygraph." Exhibit 7 at 20. He said his viewing of sexually explicit images at work "was stupid and I realize[d] that if I got caught, bad things would happen." Exhibit 7 at 28. The Individual stated that he no longer views sexually explicit material on his government computer. Exhibit 7 at 13. He noted that it had been six weeks since the last time he viewed sexually explicit materials on his work computer. Exhibit 7 at 82.

The Individual admitted that he had failed the August 7, 2014, polygraph because he "lied" and "was trying to cover up misuse of a computer system." Exhibit 7 at 8-9. The Individual then stated that he is an anxious person who over-interpreted the questions posed to him during the polygraph examination, although he subsequently admitted that he "certainly intended to use, misuse a government system," when searching for sexually explicit images. Exhibit 7 at 9, 20. The Individual subsequently denied circumventing his employer's firewall and attempted to explain his admissions that he had circumvented his employer's cybersecurity measures.⁷ Exhibit 7 at 22-23. He admitted that he had used a web proxy to visit a pornography site on one occasion, but claimed that visit was "almost work-related." Exhibit 7 at 26-28. He then described that visit as "poor judgment." Exhibit 7 at 26. He then repeatedly stated: "the web

⁶ The Individual claimed he would put a word into a popular web search engine and instruct it to search for images. He often used a woman's first name. Exhibit 7 at 13. He claimed that he never knowingly "surfed porn sites." Exhibit 7 at 15. The Individual explained that he would turn off the safe search feature in the web search engine he was using, in order to allow adult and sexually explicit images to be included in the results in his image searches. Exhibit 7 at 24, 54-55.

⁷ To this end he stated:

So in my statement or in my polygraph I made the statement that I circumvented [his employer's] filters trying to view sexually explicit things. Um, I used a lot of words that I didn't know the meaning to or that had legal meanings. One of those is circumvent --I did not circumvent by the legal definition. All I was trying to do is what would see what would come through [his employer's] proxy by doing a Google or Bing search which is all that I ever did. I never used a proxy server or Tor router or any of those things, I never actually tried to bypass. I went straight down the middle of what [his employer's] controls were designed to do. So, I did not take any action at all to try and, you know, cover up or hide what I was doing. I just pulled up a web browser and did web searches.

Exhibit 7 at 22-23.

proxy stuff was absolutely work related.” Exhibit 7 at 26, 27. The Individual stated that: “I really am not a security risk. I have misused federal equipment.” Exhibit 7 at 38.

The Individual reported that he has received counseling and medication for anxiety and stress, and further reported that he also exercises to reduce his stress. Exhibit 7 at 90- 93, 102-103.

C. The DOE Psychologist’s Evaluation

At the request of the LSO, the DOE Psychologist evaluated the Individual on December 5, 2014. Exhibit 4 at 1. In addition to conducting a 70-minute forensic psychiatric interview of the Individual, the DOE Psychologist reviewed portions of the Individual’s personnel security file. Exhibit 4 at 1-2. After completing his evaluation of the Individual, the DOE Psychologist issued a report (the DOE Psychologist’s Report) on December 5, 2014. While recognizing that the American Psychiatric Association’s Diagnostic and Statistical Manual-Fifth Edition, (DSM-5) does not recognize the compulsive viewing of pornography as a mental illness, the DOE Psychologist opined that the Individual’s “addiction” to pornography is a “mental condition.”⁸ Exhibit 7 at 8. The DOE Psychologist opined that: “The concern is that [the Individual’s] strong urge to view porn (which he correctly terms as an addiction and something that he is unable to stop) has motivated him to use poor judgment and to behave in ways that make him unreliable.” Exhibit 7 at 8. The DOE Psychologist further opined that the Individual’s pornography addiction’s effect on his judgment and reliability has manifested itself in the Individual’s masturbation in his son’s room (while his son was not present), and his viewing of sexually explicit materials at his work computer.⁹ Exhibit 4 at 8. The DOE Psychologist further concluded that the Individual was not rehabilitated or reformed for his mental condition, since the Individual continued to admit that he could not stop using pornography.¹⁰ Exhibit 4 at 6-9.

⁸ The DOE Psychologist also diagnosed the Individual with “Unspecified Anxiety Disorder.” Exhibit 4 at 5. The DOE Psychologist, however, felt that this disorder was unlikely to cause significant defects in the Individual’s judgment and reliability. Exhibit 4 at 5.

⁹ Specifically, the DOE Psychologist’s Report states, in pertinent part:

Viewing porn on his 13-year old son's computer, in his son's room (while his son, 11-year old daughter and his wife are at home), . . . and masturbating to the images and videos reflect significant defects in his judgment that have been present over a several year span. His viewing of sexually explicit imagery on his work computer over a several year span is another indication of repeated poor judgment. His doing so while being aware that it was against the security policy indicates a defect in his being reliable. His successful manipulation of his work computer indicates his wish to obscure his behavior, just as his "hiding" his viewing of porn from his family (as a result of his being caught his wife now knows). His effort to obscure his involvement in porn is also a matter of his being unreliable.

Exhibit 4 at 8.

¹⁰ During his DOE Psychological Examination, the Individual reported that it had been four and a half months since he had last viewed sexually explicit materials at work. Exhibit 4 at 4.

D. The Hearing

At the hearing, the Individual testified that, as a result of his therapy, he realized that he had made false admissions during the polygraph examination, SIT interview and his PSI. Tr. at 102. These allegedly false admissions occurred, according to the Individual's testimony, because "in times of stress, it – my judgment becomes clouded." Tr. at 102, 114. The Individual testified that he had a panic attack while he was undergoing the polygraph examination. Tr. at 87. The Individual testified that "because of the atmosphere and intimidation, I failed the polygraph."¹¹ Tr. at 88. The Individual testified that during the polygraph examination, he told the interviewer that he: had conducted web searches "with the intent of viewing sexually explicit material," downloaded pornography, and bypassed his employer's computer security. Tr. at 89. The Individual testified that he further informed the interviewer that he had been addicted to pornography for 30 years. Tr. at 89-90. The Individual also testified that he made a number of false admissions when he was interviewed by the SIT investigators. Tr. at 92-93, 101. The Individual attributed his allegedly false admissions to "my own mind, spinning out of control, overthinking the questions from the polygraph, I admitted to everything." Tr. at 93. The Individual testified that he had a panic attack during his September 23, 2014, PSI, which, he asserts, caused him to make the same statements he made during the polygraph examination and the interview with the SIT investigators. Tr. at 97.

The Individual testified that as a result of the investigations that resulted from his admissions, compounded by other stressors, he began to experience high stress levels. He began having difficulty sleeping and lost his appetite. Since he was not handling his stress well, he consulted with his physician, who prescribed medication for the Individual's symptoms. Tr. at 94. After the Individual was informed that his clearance was suspended, the Individual's anxiety became overwhelming, and he decided to begin weekly therapy with the Treating Psychologist. Tr. at 99-100. The Individual testified that his therapy was helping him "quite a lot." Tr. at 103. The Individual testified that he now understands his anxiety much better, and has learned some coping strategies to help him manage his anxiety appropriately. Tr. at 103. The Individual testified that he has given-up pornography and has not used it since December 2, 2014, approximately six months prior to his hearing. Tr. at 103-104, 124. The Individual testified that as a result of his medication and the passage of time, he is feeling much less anxious. Tr. at 108, 111. He now believes that he has his anxiety under control. Tr. at 110. The Individual testified that before his therapy, he did not believe he could control his use of pornography, but as a result of his therapy he now believes he has control over his pornography use. Tr. at 113, 124. Instead of using pornography, the Individual now plays musical instruments, video games, or cards, or reads, writes, shops, exercises, or spends time with his family. Tr. at 120, 124, 129-130. The Individual denied masturbating at work. Tr. at 106, 109.

V. ANALYSIS

At the hearing, the Individual's attorney essentially argued that the Individual (1) had not in fact, circumvented his employee's computer security, (2) has a mental illness, specifically Generalized Anxiety Disorder (GAD), which (a) caused the Individual to make false admissions

¹¹ The Individual testified that the question he failed on was "Have you ever done damage to a US government information system?" Tr. at 88.

during the polygraph examination, SIT investigation, PSI and DOE Psychologist's Examination; and (b) led the Individual to use pornography as a coping mechanism, which in turn led him to misuse his government computer by viewing sexually explicit materials.

A. Circumvention of the Individual's Employer's Computer Security.

Despite his admission during the polygraph examination that he had circumvented his employer's firewall in order to view sexually explicit material, and his admission during his PSI that he had on at least one occasion, employed a proxy server to see if he could circumvent his employer's firewall, the Individual denies that he has circumvented his employer's computer security. The Individual has tried to walk back his admissions by claiming that his admissions were in fact misstatements that, in turn, were attributable to his mental state at the time that they were made (which he asserts resulted from his GAD), and his misunderstanding of the term "circumvent."

The Individual presented the testimony of the Investigator who testified that the SIT's investigation did not find that the Individual had bypassed his employer's computer security. Tr. at 65. However, I find that the record indicates that the Individual circumvented¹² his employer's computer security software that was intended to prevent the viewing of sexually explicit materials on government computers. The Individual was able to view sexually explicit images by using various search engines such as Google and Bing. While these search engines are typically set by default to use safe-mode, a filter which prevents adult oriented materials for being included in search results, these search engines usually allow the user to disable the safe-mode filter with a few mouse-clicks on the search engine's web site. Moreover, these search engine web sites allow a user to search for images located on webpages throughout the Internet. The Individual admits that, while he was at work, he would disable the safe-mode filter on the search engines he was using, and in addition, turn off the feature on his web browser that would track his actions on the Internet, so that no record would be made of his web searches. Exhibit 7 at 24, 54-55. He would then type in a search term, in his case often women's names, hoping that the resulting images that would appear on his computer screen (but that would not be downloaded to his computer) would be sexually explicit in nature. By doing so, he was able to view sexually explicit material that would otherwise be blocked by his employer's firewall or other computer security filters, without creating a record of his activities.

The Individual correctly asserts that he did not violate any of his employer's rules by using safe-mode or turning his browser's history tracking function off. However, his employer, and the DOE, prohibited the viewing of sexually explicit materials on his government computer; and over the years, employed a number of strategies to prevent the viewing of sexually explicit materials on government computers, including, but not limited to, setting its firewalls to prevent users from accessing sexually explicit materials and the adoption of policies forbidding the viewing of sexually explicit materials. The Individual has therefore clearly used the safe-mode and history disabling options to circumvent his employer's computer security precautions

¹² Webster's Online Dictionary provides the following definition of circumvent: "to avoid being stopped by (something, such as a law or rule) : to get around (something) in a clever and sometimes dishonest way." <http://www.merriam-webster.com/dictionary/circumvent>.

deployed to enforce his employer's and DOE's prohibition against viewing sexually explicit materials.

The Individual's intentional circumvention of his employer's computer security raises significant doubts about his trustworthiness, reliability, and judgment, under Criterion L. I find that the Individual has not mitigated or resolved these doubts. Simply put, I cannot find that an individual who fails to acknowledge the lapses in judgment, reliability and trustworthiness, clearly evidenced by his circumvention of his employer's computer security precautions, has mitigated those lapses. Moreover, by failing to fully acknowledge his prior lapses in judgment, reliability and trustworthiness, the Individual has continued to exhibit the defects in judgment, reliability and trustworthiness into the present.

B. Intentional Provision of False Information

During his September 23, 2014, PSI, the Individual admitted that he had lied during his polygraph examination in order to "cover up misuse of a [government] computer system." Exhibit 7 at 9. The Individual has attempted to mitigate this admission by claiming that his anxiety caused him to misspeak, and subsequently claim that he did not in fact lie during the polygraph examination. I find these assertions to be without credibility, and that the Individual's subsequent dissembling suggests that his lack of judgment, reliability, and trustworthiness continues into the present.

Accordingly, I find that the Individual has not resolved the security concerns raised under Criterion L.

C. Misuse of a Government Computer

The Individual admits that that he misused his government computer by viewing sexually explicit materials. Tr. at 132-133. The Individual contends that the lapses in judgment, reliability, and trustworthiness exhibited by his repeated misuse of a government computer were caused by a mental illness, GAD, which is now under control. While, as I discuss at length below, I find that the Individual has shown that he suffers from GAD, and that his GAD is unlikely to cause a significant defect in the Individual's judgement or reliability going forward, those facts alone, do not sufficiently mitigate the doubts raised by the Individual's misuse of a government computer.

While there was certainly an interrelationship between the Individual's anxiety, his use of pornography, and his misuse of a government computer system, the Individual has not shown that the defects in judgment, reliability, and trustworthiness that he has exhibited, and which continue into the present, were caused by his GAD. All three of the psychologists who testified before me in this matter, testified that the Individual's GAD did not likely cause a significant defect in judgment, or reliability.¹³ Tr. at 22 (DOE Psychologist), 179 (Individual's Expert), and

¹³ Moreover, by the end of the hearing, there appeared to be a consensus among the three psychologists that the Individual had been using pornography as a coping mechanism for his anxiety, that he has learned to use other, more effective and appropriate, coping mechanisms, and that he would likely continue to use these other, more effective and appropriate strategies going forward.

195 (Treating Psychologist). (Although, the Treating Psychologist testified that the Individual's anxiety may have caused him to "overthink" and therefore make false admissions. Tr. at 187). Moreover, the Individual's minimizing of his conduct, which continued into the hearing, indicates that his judgment, reliability, and trustworthiness issues have not been fully resolved, despite his successful mental health treatment.

Accordingly, I find that the Individual has not resolved the security concerns raised by his misuse of a government computer system under Criterion L.

D. Mental Health Concerns

At the hearing, the three psychologists reached a consensus that the Individual has an anxiety disorder, most likely GAD. Tr. at 199. Each of the three psychologists that testified at the hearing also agreed that anxiety disorders, like that of the Individual's, usually do not cause significant defects in judgment or reliability. Tr. at 22, 179, 195. While they differed somewhat about the particulars, the three psychologists agreed that the Individual's use of pornography was causing problems for him and needed to be treated. Each of the three psychologists testified at the hearing that the Individual had received the appropriate and effective psychological treatment. Tr. at 161-176, 184-195, 203. Finally, each of the psychologists agreed that the Individual's prognosis was highly favorable and that his psychological issues were unlikely to cause him to return to viewing sexually explicit materials on his work computer. Tr. at 170, 179-180, 190-195, 202-203.

Accordingly, I find that the security concerns raised under Criterion H have been resolved.

VI. CONCLUSION

For the reasons set forth above, I conclude that the LSO properly invoked Criteria H and L. After considering all the evidence, both favorable and unfavorable, in a common sense manner, I find that Individual has sufficiently mitigated the Criterion H security concerns. However, the security concerns raised under Criterion L remain unresolved. Accordingly, the Individual has not demonstrated that restoring his 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: July 17, 2015