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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: May 1, 2012 )  
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 ) Case No.: PSH-12-0045  
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Issued: August 22, 2012

**Hearing Officer Decision**

Steven L. Fine, Hearing Officer:

This Decision concerns the eligibility of XXX X. XXXXXXXX (hereinafter referred to as “the Individual”) to maintain a security clearance under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, “General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.” As discussed below, after carefully considering the record before me in light of the relevant regulations, I have determined that the Individual’s security clearance should be restored.

**I. BACKGROUND**

The administrative review proceeding began with the issuance of a Notification Letter to the Individual. *See* 10 C.F.R. § 710.21. The letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. Specifically, the Local Security Office (LSO) stated that the Individual had: (1) been diagnosed by a psychologist as suffering from Impulse-Control Disorder, an illness or mental condition of a nature which causes, or may cause, a significant defect in judgment or reliability; and (2) engaged in unusual conduct which brought his honesty, trustworthiness, and reliability into question by viewing pornography at work, and inappropriately charging time spent viewing pornography to his employer.<sup>1</sup>

<sup>1</sup> *See* 10 C.F.R. § 710.8(h) and (l) (Criterion H and L, respectively).

The Notification Letter informed the Individual that he was entitled to a hearing before a Hearing Officer in order to resolve the substantial doubt regarding his eligibility for access authorization. The Individual requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Hearing Officer in this matter on May 1, 2012.

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 Counselor (the Counselor), his prayer partner, and a DOE consultant psychologist (the Psychologist). See Transcript of Hearing, Case No. PSH-12-0045 (hereinafter cited as "Tr."). The LSO submitted 10 exhibits, marked as Exhibits 1 through 10, while the Individual submitted four exhibits, marked as Exhibit A through D.

## II. FINDINGS OF FACT

The present proceeding involves an Individual who was caught viewing pornography on a desktop computer at a secure DOE facility. The Individual was interviewed by his employer's corporate security officials and was suspended for two weeks without pay effective November 8, 2011. Exhibit 7 at 2. On December 13, 2011, the LSO conducted a Personnel Security Interview (PSI) of the Individual.<sup>2</sup> The Individual admitted that he had been purposely viewing pornography during working hours for up to 1.5 hours a day, although the Individual estimated that he averaged a half an hour a day during a period of approximately two and a half years. Exhibit 6 at 3; Exhibit 9 at 10, 14-15, 100. The Individual indicated that, after viewing pornography, he would often masturbate at his desk or in the nearby restroom. Exhibit 9 at 14. The Individual has also admitted that he billed time for work when, in fact, he had been viewing pornography. Exhibit 7.

During his PSI, the Individual admitted that he had been having a problem with pornography for many years. Exhibit 9. In 2002, the Individual's pornography use was detected by his wife, and it caused problems in their relationship. Exhibit 6 at 2. The Individual subsequently sought counseling and joined a twelve-step program for sex addiction. *Id.* The Individual abstained from using pornography for five years. Tr. at 76. However, several family tragedies, including the death of a grandchild, diverted the Individual's attention from his twelve-step program and his counseling and placed further strains upon his marriage. Tr. at 79. The Individual began viewing pornography at work, in order to avoid detection by his wife. The Individual admitted that he felt compelled to view pornography and masturbate. Exhibit 6 at 3.

At the request of the LSO, the Individual was evaluated by the Psychologist on February 9, 2012. The Psychologist issued a report of his evaluation on February 10, 2012.<sup>3</sup> The Psychologist found that the Individual suffers from a sexual addiction and meets the criteria for Impulse-Control Disorder NOS set forth in the Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition, Text Revision (DSM-IV-TR). Exhibit 6 at 5. The Psychologist opined that the

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<sup>2</sup> A copy of the transcript of the December 13, 2011, PSI appears in the record as Exhibit 9.

<sup>3</sup> A copy of the February 10, 2012, Psychologist's report appears in the record as Exhibit 6.

Individual's Impulse-Control Disorder is a mental condition that could significantly affect his judgment or reliability. *Id.* The Psychologist further stated:

If I had been asked for suggestions of reformation or rehabilitation, I would have made these comments. [The Individual] should be in a weekly meeting therapy with a person not only knowledgeable in addictions but who can also address his personal relationship issues that are driving the addiction. I do not know whether [the Counselor] is that person. A marital therapy must occur as this has been intrinsically connected with his sexual behavior. His wife . . . may wish to see her own therapist prior to such a process due to her apparently deeply felt wounds. Without rectifying their relationship and intimacy issues, I believe the chance of his relapsing into again viewing porn is very high. Time will be a less meaningful measure of his rehabilitation than evidence that his attachment issues and his relationship with his wife have significantly improved.

Exhibit 6 at 5.

### **III. STANDARD OF REVIEW**

The Hearing Officer'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 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). I have considered the following factors in rendering this opinion: 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. ANALYSIS**

The LSO has invoked Criterion H citing the Psychologist's opinion that the Individual met the DSM-IV-TR criteria for Impulse-Control Disorder NOS, and has not shown reformation or rehabilitation. It is well settled that such emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. *Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information issued by the Assistant to the President for National Security Affairs*, The White House (December 29, 2005) (*Adjudicative Guidelines*) at ¶ 27. The LSO has also invoked Criterion L, since the Individual's sexual addiction caused him to engage in professionally inappropriate conduct (i.e. viewing pornography in his work cubical), and to violate his employer's ethical guidelines (by indicating

on his time sheet that he was performing chargeable work, when he was actually viewing pornography).

The *Adjudicative Guidelines* provide in pertinent part: “Sexual behavior that . . . indicates a personality or emotional disorder, reflects lack of judgment or discretion, or which may subject the individual to undue influence or coercion, exploitation, or duress can raise questions about an individual's reliability, trustworthiness and ability to protect classified information.” *Adjudicative Guidelines* at ¶ 12. The *Adjudicative Guidelines* specifically state that “a pattern of compulsive, self-destructive, or high-risk sexual behavior that the person is unable to stop . . .”; “sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress;” and “sexual behavior of a public nature and/or that which reflects lack of discretion or judgment,” are among those “conditions that could raise a security concern and may be disqualifying.” *Id.* at ¶ 13. It is similarly 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.” *Id.* at ¶ 14.

In the present case, I find that the Individual's viewing of pornography, masturbation at his workplace, and mischarging for his time, are all symptomatic of his Impulse-Control Disorder. Accordingly, the sole question before me is whether the Individual has been sufficiently reformed or rehabilitated from his Impulse-Control Disorder to resolve the security concerns raised by the derogatory information discussed above.

The Individual candidly admits that he suffers from a sexual addiction to pornography and that he was properly diagnosed with Impulse-Control Disorder NOS. The Individual has testified that he has not viewed pornography since November 2011, (approximately eight months prior to the hearing), obtained counseling from the Counselor, and has been working with a church group in order to address his sexual addiction. In addition, he and his (now estranged) wife are receiving marital therapy.

At the hearing, the Counselor testified on the Individual's behalf. The Counselor testified that he had been treating the Individual since January 2012, and that he has met with the Individual for 22 therapy sessions. Tr. at 11-12. The Counselor diagnosed the Individual with an Impulse-Control Disorder and an Adjustment Disorder with anxiety and depression. *Id.* at 11. The Individual's treatment focuses on his behavior and choices. *Id.* at 12. The Counselor testified that the Individual is responding to treatment. *Id.* at 30. The Counselor testified that the Individual needed to continue his therapy for at least another three to six months, or 12 to 24 sessions. *Id.* at 13. The Counselor testified that the Individual's Impulse-Control Disorder was “in partial remission.” *Id.* at 14-15. The Counselor stated that the Individual's risk of relapse was an “eight” on a one to ten scale (with ten being the least likely to relapse). *Id.* at 21. The Counselor re-characterized the Individual's risk of relapse as “low.” *Id.* The Counselor described the Individual's prognosis as good. *Id.* at 31. The Counselor, however, was unaware of when the Individual last viewed pornography, guessing it had occurred “five to nine years ago, something like that.” *Id.* at 23.

The Individual testified that his employer's detection of his pornography viewing worked as a

“blessing” because it resulted in his getting the further help he needs. Tr. at 85. He stated that he is less likely to relapse now that he has had the experience of getting caught at work and all of its consequences. *Id.* at 85-86. As a result of his further therapy, he now has a better understanding of his disorder and his motivation. *Id.* at 86-87. The Individual testified that he no longer feels any urges to view pornography. *Id.* at 91-92.

The Psychologist was present for the testimony of each of the other witnesses during the hearing. After the other witnesses had concluded their testimony, the Psychologist testified. The Psychologist began his testimony by opining that the Individual is currently in remission. Tr. at 108. The Psychologist testified that the Counselor “is conducting the kind of therapy that I think is very useful for helping [the Individual] actually avoid behaving or acting on his impulses as they would occur to him.” *Id.* at 108. The Psychologist went on, however, to question whether the Counselor truly understands the Individual’s motivation to view pornography. *Id.* at 108-109. The Psychologist opined that without addressing the Individual’s motivation for engaging in this behavior, the Individual will eventually relapse. *Id.* at 109-110. The Psychologist expressed his concern that the Counselor’s treatment of the Individual did not seem to be addressing the motivational aspects of the Individual’s sexual addiction. *Id.* at 110. The Psychologist opined that the Individual will not continue to progress with his current counselor. *Id.* at 112. The Psychologist also opined that the Individual needs another three to six months of abstaining from pornography. *Id.* The Psychologist testified that in the short term, the Individual’s risk of relapse is “very low.” *Id.* at 113. The Psychologist testified that the Individual is highly motivated: the Individual has hope that he might be able to save his marriage, and the Individual is not feeling compulsions. *Id.* However, in the long-run, defined by the Psychologist as the next five years, the Individual’s risk of relapse increases to “moderate.” *Id.* The Psychologist testified that if the motivation underlying the Individual’s sexual addiction is not addressed, the compulsion will likely eventually return. *Id.* at 119.

After the Individual gave his closing statement, in which he rather movingly described his commitment to addressing his Impulse-Control Disorder, and his determination to obtain counseling that will address the underlying motivation of his sex addiction, I recalled the Psychologist to the stand for further testimony. The Psychologist testified that the Individual’s closing statement was “very convincing to me.” Tr. at 130. The Psychologist opined that the danger of the Individual quitting treatment is very low. *Id.* at 129. The Psychologist noted that the Individual recognizes that he needs the type of therapy recommended by the Psychologist. *Id.* at 131. The Psychologist testified that he had modified his opinion and that he now believed that the Individual has “an acceptable level of risk about his not relapsing.” *Id.* at 131. In the short term, the Psychologist testified, the Individual has a low risk of relapse, and depending on the course of his future therapy, his long term risk of relapse is “low to moderate.” *Id.* at 131-132. According to the Psychologist, as long as the Individual’s therapy addresses his motivations for using pornography, his long term risk of relapse will be low. *Id.* at 132.

I find that the Psychologist has convincingly testified that the Individual has been sufficiently reformed or rehabilitated from his Impulse-Control Disorder. Based on all the evidence before me, I find that the Individual has resolved the security concerns arising from his Impulse-Control Disorder and its associated behaviors. Accordingly, I find that the Individual has mitigated the security concerns raised under Criteria H and L.

## V. CONCLUSION

For the reasons set forth above, I conclude that the LSO properly invoked Criteria H and L. I find that the security concerns raised under both of these criteria have been mitigated. Accordingly, the Individual has 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 be restored. The DOE 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  
Hearing Officer  
Office of Hearings and Appeals

Date: August 22, 2012