

that there existed derogatory information that raised security concerns under 10 C.F.R. §§ 710.8 (h) and (1) (Criteria H and L, respectively).² See DOE Ex. 1 (Notification Letter, February 4, 2013). The Notification Letter also informed the Individual that he was entitled to a hearing before a Hearing Officer in order to resolve the security concerns. *Id.*

The Individual requested a hearing on this matter. DOE Ex. 2. The LSO forwarded his request to the Office of Hearings and Appeals, and I was appointed the Hearing Officer. At the hearing, the DOE counsel introduced five exhibits into the record (DOE Exs. 1-5) and presented the testimony of one witness, the DOE psychologist. The Individual, represented by counsel, submitted twelve exhibits and presented his own testimony, as well as the testimony of the following nine witnesses: his wife; a peer from the in-patient treatment program, who has since become a close friend; his twelve-step program sponsor; his supervisor; two co-workers; his primary care physician; a psychologist that is currently treating the Individual ("the treating psychologist"), and a psychologist who performed a forensic evaluation of the Individual for the purposes of providing testimony during this proceeding ("Individual's psychologist"). See *Indiv. Exs. A-L*; Transcript of Hearing, Case No. PSH-13-0026 (hereinafter cited as "Tr.>").

II. REGULATORY STANDARD

The regulations governing the Individual's eligibility for access authorization are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." The regulations identify certain types of derogatory information that may raise a question concerning an individual's access authorization eligibility. 10 C.F.R. § 710.10(a). Once a security concern is raised, the individual has the burden of bringing forward sufficient evidence to resolve the concern.

In determining whether an individual has resolved a security concern, the Hearing Officer considers relevant factors, including "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 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," and the impact of the foregoing on the relevant security concerns. 10 C.F.R. § 710.7(c). In considering these factors, the Hearing Officer also consults adjudicative guidelines that set forth a more comprehensive listing of relevant factors. See 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).

² Criterion H concerns information that a person has "an illness or mental condition of a nature which, in the opinion of a board-certified psychiatrist, other licensed physician or a licensed clinical psychologist causes, or may cause, a significant defect in judgment or reliability." 10 C.F.R. §710.8(h). Criterion L pertains to circumstances tending 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." 10 C.F.R. § 710.8(1).

Ultimately, the decision concerning eligibility is "a comprehensive, common-sense judgment made after consideration of all relevant information, favorable and unfavorable" 10 C.F.R. § 710.7(a). In order to reach a favorable decision, the Hearing Officer must find that "the grant or restoration of access authorization to the individual would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.27(a). "Any doubt as to an individual's access authorization eligibility shall be resolved in favor of the national security." *Id. See generally Dep't of the Navy v. Egan*, 484 U.S. 518, 531 (1988) (the "clearly consistent with the interests of national security" test indicates that "security clearance determinations should err, if they must, on the side of denials").

III. FINDINGS OF FACT

The Individual began viewing pornography on a daily basis when he first went away to college in 1992. Tr. at 171. The Individual had difficulty adjusting to his life at this school, and he discovered pornographic magazines and masturbation were effective coping mechanisms for his turbulent emotional state. *Id.* After a semester, the Individual transferred to another university closer to his hometown. Tr. at 171, 205. During this time, the Individual worked in a job at the university which afforded him access to a computer and an internet connection, and he used them to search for sexually explicit material. It was at this time that the Individual discovered the extent to which pornography was freely available and accessible on the internet. Tr. at 171-72. His practice of viewing of pornography and masturbating increased, now occurring daily, both at home and at work. *Id.*

Over the ensuing years, even after the Individual's marriage, the frequency of his use of pornography and masturbation at home remained largely unchanged; he typically engaged in the conduct on a near-daily basis for "a couple hours" at a time, usually at night after his wife and children were asleep. DOE Ex. 5 at 93-94. Although the frequency of the use remained largely unchanged, the nature of the material that the Individual viewed did change over time, becoming more explicit, aggressive, and fetishistic. DOE Ex. 4 at 2. The Individual viewed pornographic websites on the internet, sometimes participating in chat rooms or webcams on those sites. DOE Ex. 5 at 87-88. Over the years, the Individual often spent hundreds of dollars per month accessing pay sites in order to view pornography. As a result, he amassed several thousand dollars in credit card debt.³ Tr. at 220, DOE Ex. 5 at 111-114. The scope of the Individual's habit, including the details regarding time spent and resources allocated in pursuit of it, were largely unknown to his wife. Tr. at 210-11, 216, 220.

The Individual's extensive use of pornography also affected his professional life. He viewed sexually explicit images at work on his government computer for approximately 20 years. Tr. at 172-74. The misuse began when the Individual worked at a DOE facility during school vacations while attending college and graduate school. During those periods, beginning in the early 1990s, he viewed sexually explicit images at work on his government computer daily for several hours at a time, despite his knowledge that doing so was against workplace policy. He often also

³ Although the Individual did incur some debt frequenting the pay sites to view pornography, there is no indication in the record that he has ever been unable to satisfy his financial obligations as a result.

masturbated on these occasions. After he completed graduate school and secured a permanent position at a DOE facility, the Individual continued to use his government computer to view sexually explicit images, but did so less frequently. The conduct decreased from daily occurrences in the 1990s to several times per week between 2000 and 2009. From 2009 to 2012, as the Individual's responsibilities at work increased, he viewed prohibited images on his government computer on a less frequent basis. The Individual estimates that in recent years he engaged in the conduct "a couple of times every six months." Tr. at 173.

In addition to his misuse of a government computer to view inappropriate material, the Individual's pornography use affected his workplace behavior in another way. In the mid-1990s, the Individual met with a counselor affiliated with his workplace's Employee Assistance Program (EAP) because he believed that his use of pornography had become problematic. In 1997, not long after he met with the EAP counselor, the Individual was subject to a routine reinvestigation of his security clearance. During that process, when he discussed generally his contact with the EAP counselor, he was specifically asked whether he had viewed sexually explicit images at work. DOE Ex. 5 at 13-15. The Individual failed to provide an honest response, answering instead that he had never viewed inappropriate material at work. *Id.* The Individual then repeated the falsehood during his next two reinvestigations. In each instance, he was aware that he was providing an untruthful answer. Tr. at 227-29.

In 2009, in the course of his work, the Individual was on a team that responded to a serious accident. That accident involved serious injuries and, ultimately, resulted in a lawsuit in which the Individual might have to participate as a witness. Tr. at 174-75. In July 2012, the Individual learned that the hard drive of his work computer was copied as part of the discovery process for that lawsuit. He feared that computer contained images or other data that would subsequently expose to his management his inappropriate use of his work computer to view sexually explicit images. Tr. at 175-76. Consequently, the Individual became severely emotionally distressed, and, with the support of his wife, sought assistance from his primary care physician. Tr. at 176. Shortly thereafter, the Individual voluntarily enrolled in a five-week in-patient program to seek treatment for his problem with pornography, and was diagnosed with a sexual disorder. Upon completion of the in-patient program, he returned home to continue treatment of his condition on an out-patient basis. Tr. at 178-79.

As noted above, the DOE psychologist evaluated the Individual in December 2012, after which he diagnosed the Individual with Paraphilia Not Otherwise Specified (NOS). DOE Ex. 4. The DOE psychologist indicated that this condition is a "mental condition which causes, or may cause, significant defects in judgment or reliability." *Id.* at 7. Despite his official diagnosis, according to the DOE psychologist's report, the Individual's condition could accurately be described as "sexual addiction," or "severe obsessive and compulsive use of computer pornography," although neither of those terms appears in the *DSM-IV-TR*.⁴ *Id.* at 4. Regardless

⁴ The mental health professionals who testified in this proceeding concurred that the various labels ascribed to the Individual's condition throughout his treatment and subsequent evaluations are all accurate and, often, are used interchangeably to describe the same condition. In the body of this decision, the Individual's condition is referred to alternately as Paraphilia NOS, Sexual Addiction to Pornography, and Sexual Addiction Disorder.

of the label given to the condition, the DOE psychologist opined, the Individual's condition is "an extreme problem," and "matches the requirements for dependence" in a number of ways. *Id.* at 4-5. The DOE psychologist further noted that he did not diagnose the Individual with a personality disorder because his "disordered behavior, (e.g. misrepresentations, violating agreements, disobeying serious workplace rules, excessive spending) were at the service of his sexual obsessions and compulsions rather than an independent, structured character disorder." *Id.* at 7. Regarding the Individual's management of his condition, the DOE psychologist believed that the Individual was "unrealistic" in believing that, at the time of the December 2012 evaluation, the condition was under control. The DOE psychologist identified three factors of concern with respect to the Individual's prognosis: (1) the compulsive sexual behavior at issue has been frequently reinforced by gratification over a substantial period of time; (2) the availability and accessibility of pornography on the internet provides "maximum temptation" and "maximum opportunity;" and (3) the specific, often fetishistic, nature of the Individual's sexual interests cannot be met in his marriage. *Id.* at 5. The DOE psychologist opined that if the Individual can successfully maintain "the treatment regimen he has set for himself," and refrain from "reverting to the use of computer pornography for two years," then he has a "moderate to good chance" of controlling his disorder. *Id.* at 7.

IV. THE NOTIFICATION LETTER AND ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO invoked Criteria H and L in the February 2013 Notification Letter. To support the Criterion H concern, the LSO cites the DOE psychologist's opinion that (1) the Individual meets the diagnostic criteria set forth in the *Diagnostic and Statistical Manual of the American Psychiatric Association, Edition IV, Text Revision (DSM-IV TR)* for Paraphilia Not Otherwise Specified, and (2) this is a mental condition which causes, or may cause, a significant defect in the Individual's judgment or reliability. DOE Ex. I. As a basis for invoking Criterion L, the LSO raised two distinct, yet related, concerns. First, the LSO cited the Individual's own admission, made both during the November 2012 PSI and his December 2012 evaluation with the DOE psychologist, that he "did not tell the truth" during the 1997 reinvestigation of his security clearance when asked about viewing pornographic material on a government computer while at work. DOE Ex. I. Second, the LSO cited the Individual's admission that he viewed sexually explicit images on his government computer over a period of approximately 20 years, despite his knowledge that such conduct was against policy, most recently in July 2012. *Id.*

It is well-established that a diagnosis of a mental health disorder raises security concerns under Criterion H. Adjudicative Guidelines, Guideline I, ¶ 27 ("Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness."); *see also Personnel Security Hearing*, Case No. PSH- 12-0080 (2012). In addition, according to the Adjudicative Guidelines, certain sexual behavior can raise questions about an individual's reliability, trustworthiness and ability to protect classified information, including "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 . . . which reflects lack of discretion or judgment." Adjudicative Guidelines, Guideline D, ¶¶ 12-13; *see also Personnel Security Hearing*, Case No. PSH-12-0016 (2012). Similarly, 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*" Adjudicative Guidelines, Guideline E, ¶ 15 (emphasis added). Finally, "noncompliance with rules, procedures, guidelines or regulations pertaining to information technology systems may raise security concerns about an individual's reliability and trustworthiness" Adjudicative Guidelines, Guideline M, ¶ 39. The Adjudicative Guidelines identify "unauthorized use of a government or other information technology system" an example of such noncompliance. *Id.* at ¶ 40(e).

In this case, based on the Individual's diagnosis of a mental health condition which causes, or may causes a significant defect in his judgment or reliability, his use of a government computer to view prohibited images in violation of workplace policy over a 20-year period, his dishonesty during the reinvestigation of his security clearance, as described above, and the sensitive nature of the conduct itself that is at issue here, I find that the LSO had ample grounds for citing Criteria H and L in this proceeding.

V. ANALYSIS

The main facts giving rise to the security concerns in this case are essentially undisputed.⁵ The only remaining question is whether the Individual has presented sufficient to fully resolve those concerns. In making a determination regarding the Individual's eligibility for DOE access authorization, I have thoroughly considered the record in this proceeding, including the hearing testimony and the documentary evidence. For the reasons set forth below, I am unable to find that restoring the Individual's suspended DOE access authorization "will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a).

A. The Individual's Mitigating Evidence

1. Testimonial Evidence

The Individual readily acknowledged that his compulsive use of pornography had been a serious problem for nearly 20 years. He attempted to address the problem on his own on multiple occasions. In the mid-1990s, he met with an EAP counselor regarding his pornography habit, but did not fully explain the extent of his problem to the counselor. The Individual judged the counselor's proposed treatment unhelpful and, therefore, did not pursue treatment at that time. Tr. at 232. He testified that, in retrospect, he was likely not ready at that time to undertake the

⁵ There was some dispute regarding minor factual details in this case. For example, the Individual spent some time during his testimony identifying certain facts that he believed the DOE psychologist misrepresented in his report. *See* DOE Ex. 4; Tr. at 201-02, 278. I find that the disputes regarding these facts are attributable either to minor inadvertent typographical errors by the DOE psychologist in preparing his report, or to disagreements between the Individual and the DOE psychologist regarding the accuracy of the psychologist's recollection of statements that the Individual made during his evaluation regarding relatively inconsequential details which, ultimately, have no bearing on my findings in this case.

treatment necessary to address his addiction. *Id.* The Individual also informed his wife in the late 1990s that he had a problem with pornography, but, as with the EAP counselor, did not explain to her the severity of his problem. Tr. at 210. Finally, the Individual attempted to stop using pornography on his own in approximately 2008 or 2009, but did not pursue treatment or outside assistance at that time because he did not know where to begin to address his condition. Tr. at 223-24. He stated, "I just don't think I had any idea what to do." Tr. at 224.

The Individual testified that, in July 2012, when he was informed that his computer was scanned and he feared discovery of his behavior at work, "the way [he] felt was completely overwhelming," and was "the lowest, darkest" point in his life. Tr. at 177. He stated that he has abstained from pornography since August 2012. Tr. at 192. Since that time, he has completed a five-week in-patient treatment program, which he describe as an "eye-opener," consisting of daily lectures, group therapy sessions, and 12-step meetings that addressed both general addiction topics and issues specific to sexual disorders. Tr. at 177-79. Since completing the in-patient program, the Individual's treatment regimen consists of weekly therapy sessions with the treating psychologist, weekly attendance at meetings of Sex Addicts Anonymous (SAA), a 12-step program similar to Alcoholics Anonymous (AA), and continued contact and work with an SAA sponsor. Tr. at 179-87. In addition, the Individual has developed a strong relationship with a peer and close friend from the in-patient program, who has become "almost like a second sponsor" for him, and together they created a weekly online meeting, similar to a 12-step program meeting, for members of their former group. Tr. at 188.

The Individual testified candidly and movingly about the impact that his treatment has had on his life, stating that there is a "night-and-day difference" in how he feels now compared to before treatment. Tr. at 194. He stated that he is much happier and enjoys his life. Currently, his marriage is "very strong," and he is more emotionally available to his wife and children. Tr. at 194-95, 198-99. He and his family joined a new church and have become active members of that community. Tr. at 199. He enjoys volunteering his time to help his colleagues with their recovery as well, and hopes to become a sponsor someone in the future. Tr. at 199, 218-19. The Individual testified that, although he continues to experience urges to view pornography, they are much less frequent than in the past, decreasing over time, and he has been able to control those urges without reverting to viewing pornography or sexually explicit images. Tr. at 222-23. The Individual is confident that he has developed the tools necessary to help him control his addiction and that he has a strong support network to help him in his efforts. In that regard, he intends to abstain from viewing pornography and to continue his involvement in SAA indefinitely. Tr. at 189, 223.

Finally, the Individual acknowledged that he was dishonest during the 1997 reinvestigations of his security clearance when he denied viewing sexually explicit materials at work, and that he repeated the falsehood on two subsequent reinvestigations. Tr. at 227-28. However, he linked his dishonesty to his sexual addiction disorder. He stated, "my dishonesty was solely based around my addiction . . . [and the addiction] is managed now, and I'm in recovery, and it's in the open, so I have no reason whatsoever to lie about it again." Tr. at 229.

The Individual's testimony was largely corroborated by the other witnesses at the hearing. The Individual's wife, his AA sponsor, and his peer/friend testified regarding his commitment to his abstinence and treatment, and the support that they provide him during his recovery. Tr. at 20-27, 85-102, 106-114. In addition, the treating psychologist discussed the progress that the Individual has made since July 2012, and expressed her confidence that he will continue both his abstinence and his compliance with his treatment regimen. Tr. at 59, 65. The Individual's work witnesses, who each had at least some knowledge of basis for the hearing, testified regarding the Individual's general honesty, reliability, and good judgment at work. Tr. at 121-23, 136-37, 144-46.

2. Expert Testimony

The Individual's psychologist and the DOE psychologist agreed regarding the seriousness of the Individual's condition, the fact that he does not have an underlying personality disorder, the adequacy of the Individual's treatment regimen to address such a condition, and the Individual's commitment and adherence to his treatment program. Tr. at 233-77, 278-93.

Both experts also expressed their opinions regarding the Individual's overall honesty and forthrightness, and attributed the prior incidents of dishonesty that are at issue in this proceeding to his underlying condition. In that respect, the Individual's psychologist recognized that the Individual's "lying in this case was long-standing and occurred with secrecy over many years," raising a significant concern. Tr. at 257-58. However, he noted that because the Individual has "a sexual addiction uncontaminated by a personality disorder," once his condition is rehabilitated, "there is very little chance that [the] dishonesty and deception would recur." Tr. at 258. The DOE psychologist similarly associated the Individual's incidents of dishonesty with his condition. He stated that, "in everything that was important, [the Individual] was honest, deliberate, a good citizen. In fact, he is all of those things." Tr. at 280. However, according to the DOE psychologist, the Individual's behavior is indicative of a *superego lacunae* (loosely translated, "a hole in one's conscience") which enables one to justify certain behaviors for a specific reason. In the Individual's case, that reason was his compulsive need to satisfy his addiction. The DOE psychologist added that, "because [the Individual] is not a liar, he's not deceptive, he does not endanger the national security . . . he does not do any of those things, except around sexual gratification. That is a *superego lacunae*." *Id.*

While they generally agreed regarding the nature of the Individual's condition, and had only some minor, relatively inconsequential areas of disagreement in their overall opinions, the two mental health experts substantially disagreed on one major point: whether the Individual has demonstrated adequate rehabilitation of his sexual addiction disorder after ten months of treatment and abstinence from viewing pornography.

The Individual's psychologist first noted that, unlike the DOE psychologist who only evaluated the Individual once early in his recovery, in December 2012, he had the opportunity to evaluate the Individual several times for a total of six hours in the Spring of 2013 and, therefore, had more detailed and recent information on which to base his opinion. Tr. at 237, 256. He opined that the Individual "has an excellent prognosis for successful continued rehabilitation." Tr. at 240.

He based this opinion on several factors, including the strength of the Individual's treatment program, the Individual's excellent compliance with his treatment regimen, the new tools the Individual learned to cope with stressors he may face in life, the Individual's fellowship in the SAA 12-step program, work with a sponsor, his willingness to be of service to others in their recovery, his strong relationships with his wife and children, and his involvement in his new church and other hobbies. Tr. at 242-50. With respect to the length of time that the Individual has been abstinent and in treatment, the Individual's psychologist stated, "I don't think that people should get the idea that there is a formula for time in rehabilitation, because without proper rehabilitation, no amount of time is sufficient." Tr. at 256. He added that the Individual's participation in his treatment "has indicated that he, in fact, has had that successful rehabilitation of his condition." Tr. at 257. However, earlier in his testimony, the Individual's psychologist did accord some significance to the factor of time in relation to the likelihood of a successful rehabilitation. In expressing his confidence in the Individual's commitment to maintaining his abstinence and rehabilitation, the Individual's psychologist opined, "as more time has gone on since [the Individual's] discharge from [the in-patient facility], I really feel that we can trust that commitment to be a lifelong commitment." Tr. at 252. He concluded that the Individual's risk of relapse, as of the hearing, was "extremely low." Tr. at 276.

In contrast, the DOE psychologist was considerably more guarded in his opinion of the Individual's prognosis. He testified that the Individual's condition manifested itself as a serious habit, and "a habit has a greater strength and a greater strength of returning the longer it has existed." Tr. at 279. He also noted that, "a habit has a stronger residue and a greater chance of returning to the degree it has been reinforced," and the Individual's habit was repeatedly reinforced by gratification. *Id.* Based on the factors in the Individual's case, the DOE psychologist continued to recommend that the Individual demonstrate two years of continued abstinence and maintenance of his treatment regimen in order to demonstrate adequate evidence of rehabilitation. Tr. at 281-82. He stated that, in his experience, it was unlikely that an individual who suffered from such a severe sexual addiction or compulsion for 20 years could be successfully rehabilitated from that disorder in less than one year. Tr. at 282. The DOE psychologist opined that the Individual needed more time in his treatment regimen to address his condition. In the DOE psychologist's opinion, as of the hearing, the Individual's risk of relapse remained "very high." Tr. at 292.

3. Documentary Evidence

The Individual offered a number of documents in support of his efforts to mitigate the security concerns in this case. *See* Indiv. Exs. A-L. One document is a report generated during a Fitness for Duty evaluation of the Individual upon his return to work after his in-patient treatment. The report indicates that, after a psychological evaluation, the Individual was found fit for duty and "capable of performing work in a safe and reliable manner with no work restrictions." Indiv. Ex. A. A number of other exhibits document the Individual's professional qualifications and exemplary work record. *See* Indiv. Exs. B-I.

B. Hearing Officer Evaluation of Evidence

1. Criterion H

The Individual has made excellent progress in treating his disorder. The quality of his treatment regimen itself is beyond dispute. I was impressed at the hearing by the commitment and eagerness with which the Individual has engaged in his treatment, as demonstrated by the bond that the Individual has with his SAA sponsor, treatment program peer/friend, and even his treating psychologist and physician. I found compelling the testimony of the Individual's psychologist regarding the various factors which will ultimately support a favorable prognosis. However, I simply cannot ignore the fact that the Individual was in the grip of an incredibly strong compulsion or addiction for 20 years - a grip so strong that it overwhelmed the Individual's generally sound judgment and caused him to repeatedly and knowingly violate serious workplace rules and regulations, and which continued to overpower his desire to control his behavior. Comparatively, the Individual is in the very early stages of his recovery. Although the Individual's psychologist downplayed the importance of time as a factor in assessing the rehabilitation, it is well-established that the passage of time is an essential measure in determining whether an individual is likely to relapse or revert to the problematic behavior at issue. *See* Adjudicative Guidelines, Guideline D, ¶ 14(b) (identifying as a mitigating condition that "the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment"). When weighed against such a severe and longstanding condition, I found very persuasive the testimony of the DOE psychologist that, with only ten months of demonstrated treatment and abstinence as of the date of the hearing, it is simply too early to conclude that the Individual is adequately rehabilitated. Therefore, I find that the security concerns raised by the Individual's sexual disorder remain unresolved at this time.

2. Criterion L

Regarding the Individual's prior incidents of dishonesty, the testimony of the two mental health experts persuade me that the dishonesty at issue here was a symptom of the Individual's condition, rather than a discrete issue. However, because the Individual's incidents of dishonesty are symptomatic of his sexual addiction disorder and, as noted above, the Individual has not yet mitigated the security concerns related to his condition, I cannot conclude at this time that he has resolved the related Criterion L security concerns regarding his past dishonesty.

Finally, with respect to the Individual's misuse of his government computer, I find ample testimonial and documentary evidence in the record to conclude that, throughout his career, the Individual has been an accomplished employee of generally sound judgment and reliability, and, absent his severe and long-standing sexual addiction to pornography, was highly unlikely to have engaged in the inappropriate behavior in the workplace. Nonetheless, I cannot find at this time that the Individual has mitigated the Criterion L concern raised by his 20-year pattern of misuse of a government computer. Among the conditions that may mitigate security concerns related to misuse of a government computer to view sexually explicit materials at work are that the behavior happened so long ago or under "such unusual circumstances, that it is unlikely to recur

or does not cast doubt on the individual's reliability, trustworthiness, or good judgment." Adjudicative Guidelines, Guideline M, ¶ 41; *see also* Guideline D at ¶14(b); Guideline E at ¶ 17(c). In this case, as noted above, it is simply too soon in the Individual's recovery from the underlying condition to conclude that the behaviors at issue here are unlikely to recur in the future.

Based on the foregoing, I find that the Individual has not mitigated the security concerns raised by his inappropriate behaviors in the workplace stemming from his sexual addiction disorder.

VI. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised doubts regarding the Individual's eligibility for a security clearance under Criteria H and L of the Part 710 regulations. I also find that the Individual has not presented sufficient information to fully resolve those concerns. Therefore, I cannot conclude that restoring the Individual's suspended DOE access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should not restore the Individual's access authorization.

The parties may seek review of this Decision by an Appeal Panel, under the regulation set forth at 10 C.F.R. § 710.28.

Diane DeMoura
Hearing Officer
Office of Hearings and Appeals

Date: August 13, 2013