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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: September 10, 2012 )  
 ) Case No.: PSH-12-0116  
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Issued: December 20, 2012

**Hearing Officer Decision**

Richard A. Cronin, Jr., Hearing Officer:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXXXXXX (“the Individual”) to hold a Department of Energy (DOE) access authorization.<sup>1</sup> For the reasons detailed below, I find that the Individual’s suspended access authorization should not be restored.

**I. BACKGROUND**

The Individual is a contractor employee at a DOE facility who has possessed a security clearance since 2010. Exhibit (Ex.) 4 at 15. In April 2012, the Individual submitted an incident report to the facility’s local security office (LSO) reporting that she had filed a Chapter 7 Bankruptcy Petition several days earlier. Exhibit (Ex.) 3 at 1. Consequently, the LSO conducted a personnel security interview (2012 PSI) with the Individual in June 2012 (2012 PSI). Ex. 8.

Because the 2012 PSI revealed that the Individual’s 2012 Bankruptcy Petition had been triggered by gambling, the LSO referred the Individual to a DOE-contractor psychologist (DOE Psychologist) who examined the Individual in July 2012 and issued an evaluative report (Report) regarding the Individual later that month. Because neither the 2012 PSI nor the Report resolved the concerns raised by the Individual’s recent Bankruptcy Petition or her gambling, the LSO informed the Individual, in a August 2012 notification letter (Notification Letter), that derogatory information existed under 10 C.F.R. §§ 710.8 (h) and (l) (Criterion H and Criterion L,

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<sup>1</sup> Access authorization, also known as a security clearance, is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5.

respectively) that created a substantial doubt as to her eligibility to retain a security clearance. Ex. 1. The Notification Letter also informed the Individual that her security clearance was suspended and she 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. At the hearing, the DOE counsel introduced eight exhibits into the record (Exs. 1-8) and presented the testimony of the DOE Psychologist. The Individual introduced three exhibits (Ex. A-C) and presented her own testimony, as well as the testimony of her boyfriend (Boyfriend), her counselor (Counselor) a Gamblers Anonymous (GA) meeting leader (GA Leader), and her supervisor (Supervisor). *See* Transcript of Hearing, Case No. PSH-12-0116 (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 of the conduct at issue, the frequency or recency of the conduct, the absence or presence of reformation or rehabilitation, 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*).

Ultimately, the decision concerning eligibility is a comprehensive, common-sense judgment based on a 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) (*Egan*) (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 AND ANALYSIS**

### **A. Factual Findings**

The underlying facts are not disputed. In April 2012, the Individual submitted an incident report informing the LSO that she had recently filed a Chapter 7 Bankruptcy Petition. Ex. 3 at 1. The LSO then conducted the 2012 PSI with the Individual. During this interview, the Individual

estimated that, in her Bankruptcy Petition, she sought to discharge approximately \$10,000 in debt.<sup>2</sup> Ex. 8 at 12; Ex. 6 at 7. Of this debt, the Individual stated that she was seeking discharge of six “payday loans.”<sup>3</sup> Ex. 8 at 51. The Individual estimated that she had obtained three of these loans to enable her gambling. Ex. 8 at 51. Additionally, the Individual admitted during the 2012 PSI to borrowing approximately \$400 a week during the prior six months to gamble and to pay off other payday loans. Ex. 8 at 69-70, 72.<sup>4</sup> The Individual also admitted to gambling with money she had set aside to purchase her children’s clothes. Ex. 8 at 101.

After 2012 PSI, the Individual was examined by the DOE Psychologist. Ex. 4. In his Report, the DOE Psychiatrist diagnosed the Individual as suffering from “Pathological Gambling,” an illness which could cause a significant defect in the Individual’s judgment and reliability. Ex. 4 at 6. In making this diagnosis, he found that from the last six months of 2011 through the first six weeks of 2012, the Individual met the Diagnostic and Statistical Manual Forth Edition Text Revision (DSM-IV-TR) criteria for Pathological Gambling. Ex. 4 at 6.<sup>5</sup> As additional support for his diagnosis, the DOE Psychologist noted the Individual’s use of “payday loans” to relieve her critical financial situation caused by her gambling. Ex. 4 at 6.

In his Report, the DOE Psychologist noted that the Individual had, at the time of his examination, stopped gambling and was participating in individual therapy and a GA program. Ex. 4 at 6. However, the DOE Psychologist noted that the Individual did not have a sponsor and did not attempt to contact other GA members when she was tempted to gamble. Ex. 4 at 6. Further, at the time of his examination, the Individual visited with her Counselor only every other week. Ex. 4 at 6. The DOE Psychologist recommended weekly counseling, in light of the Individual’s “tepid” involvement with GA, and opined that to show adequate evidence of rehabilitation the Individual must abstain from gambling and overspending for 12 months during which the Individual had total discretion over her spending.<sup>6</sup> Ex. 4 at 7. Additionally, the DOE Psychologist recommended a more active involvement in GA, including obtaining a sponsor. Ex. 4 at 7.

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<sup>2</sup> The Notification Letter asserts that the Individual admitted, during the 2012 PSI, to seeking to discharge debts totaling \$22,465 in her 2012 Bankruptcy Petition. However, during the 2012 PSI, the Individual estimated that she discharged \$10,000 of debts. Ex. 8 at 12. The Individual’s Chapter 7 Petition lists debts of \$22,465. Ex. 6 at 7. Of that total, the Individual reaffirmed a debt of approximately \$8,000 for her automobile. Tr. at 154.

<sup>3</sup> These “payday” or “quick” loans are loans made for a short period of relatively small amounts of money at high interest rates. Throughout this decision, the terms “quick” or “payday” loans will be used interchangeably.

<sup>4</sup> The Notification Letter asserts that the Individual admitted losing \$400 a week at casinos. However, I was unable to find a statement in the 2012 PSI to confirm that assertion. The 2012 PSI indicates that the Individual stated that she sought to borrow approximately \$400 a week to pay off loans and to gamble. Ex. 8 at 69-70, 72.

<sup>5</sup> Specifically, after examining the Individual and reviewing the Individual’s 2011 PSI, the DOE Psychologist found that the Individual had become preoccupied with gambling, finding money to gamble and hiding her presence at casinos (meeting DSM-IV-TR Criterion 1). He also found that the Individual needed to gamble with increasing amounts of money (Criterion 2), repeatedly tried to control her gambling (Criterion 3), realized that gambling was a means for her to deal with unpleasant feelings (Criterion 5), gambled in an increasing manner to recover losses (Criterion 6), and concealed her gambling from her significant other (Criterion 7). Ex. 4 at 6.

<sup>6</sup> The Individual, at the time of the DOE Psychologist’s interview, had given her Boyfriend and mother total control over her financial affairs. Ex. 4 at 4; Ex. 8 at 72.

Criterion H pertains to a 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. It is well settled that such emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. *Adjudicative Guidelines*, Guideline I at ¶ 27; *Personnel Security Hearing*, Case No. PSH-12-0045 (2012). Compulsive gambling is a concern as it may lead to financial crimes including espionage. *See Adjudicative Guidelines*, Guideline F, ¶ 18; *see, e.g., Personnel Security Hearing*, Case No. PSH-12-0055 (August 30, 2012). In light of the DOE Psychologist's diagnosis of Pathological Gambling, I find that the LSO had ample grounds to invoke Criterion H in this matter.

Criterion L concerns conduct tending to show that the Individual was "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(l). In this regard, 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. *See Adjudicative Guidelines*, Guideline F, ¶ 18; *see also Personnel Security Hearing*, Case No. PSH-12-0101 (2012). In light of the Individual's 2012 Bankruptcy Petition, I find that the LSO properly invoked Criterion L.

## **B. Whether the Individual has mitigated the Security Concerns**

### ***1. Criterion H - Pathological Gambling***

At the hearing, the Individual acknowledged that she has a gambling problem and presented witnesses in an attempt to establish that she is now rehabilitated. Tr. at 135, 159. She believes that any security concerns raised by her gambling problem are now resolved.

The Individual testified that her gambling problem began during an employment-related conference she attended away from home. Tr. at 115. After a conference session, she entered into a hotel casino and spent several hours gambling with slot machines. Tr. at 115. Shortly after she returned home, she began to gamble at a nearby casino for increasingly longer periods of time beginning in December 2010. Tr. at 115-16. The Individual began to spend increasing amounts of money gambling during the period December 2010 through February 2012. Tr. at 117. Eventually, the Individual began to use money that she had budgeted for her living expenses, including clothes for her children. Tr. at 117. Because of these gambling expenses, the Individual borrowed money from her Boyfriend and parents. Tr. at 117. Eventually she began to take out high-interest "quick" or "payday" loans to cover her gambling debts. Tr. at 117.

Sometime in February 2012, the Individual began to realize that she needed help regarding her gambling and financial problems and then contacted her mother and sister. Tr. at 120. Along with her Boyfriend, the Individual met with her mother and sister to review her situation ("the

Intervention”). Tr. at 121. Together they decided that she needed professional help for her problems. Tr. at 121.

Shortly after discussing her situation with her Boyfriend and family, the Individual began to see her Counselor. Tr. at 123-24. The Counselor as well as the Individual’s mother and sister recommended that the Individual participate in GA, a 12-step recovery program, and in February 2012, the Individual started to attend GA meetings. Tr. at 142-43; *see* Ex. 4 at 4.

The Individual’s sessions with the Counselor focused on the Individual’s gambling behavior and reasons behind the behavior. Tr. at 125, 141. The Individual, through counseling, explored how she gambled as a way to escape unpleasant feelings. Tr. at 125. As the Individual continued with counseling and with GA meetings, the Individual spent less time gambling and then made the decision to stop gambling totally. Tr. at 141, 148-49. The Individual’s last wager occurred on March 30, 2012.<sup>7</sup> Tr. at 117.

As her counseling sessions continued, the Individual and the Counselor began to reduce their focus on the Individual’s gambling issue and to work increasingly with the Individual’s other emotional difficulties. Tr. at 144, 156. Through these sessions, the Individual is learning to identify and express her emotions. Tr. at 124. Additionally, the Individual is learning assertiveness techniques and she is using these techniques in communicating with her children at home. Tr. at 124. The Individual testified that she currently visits the Counselor approximately every two weeks. Tr. at 156. One of the most important lessons she has gained from her therapy with the Counselor is that she cannot control life difficulties and her various urges, but that she can control how she responds to these events. Tr. at 128.

With regard to her participation in GA, the Individual initially felt obligated to attend. Tr. at 150. However, after several sessions, and after the Individual made the decision not to gamble again, the Individual began to look forward to attending the meetings. Tr. at 150. The Individual now attends GA meetings twice weekly. Tr. at 150. Her GA group usually discusses one of the 12 steps each month. Tr. at 129. The Individual has a GA sponsor and meets with her to discuss whatever step the Individual is personally working on. Tr. at 129.

The Individual believes that her attendance at GA has empowered her to resist gambling. Tr. at 130. The Individual still has thoughts about gambling. These thoughts were intense earlier in her involvement in GA but as of the date of the hearing are less intense. Tr. at 130. She is most likely to have such thoughts when she is in a stressful situation. Tr. at 130. However, when confronted with these thoughts, she stops and thinks whether gambling would improve her situation or help her feel better. Tr. at 130-31. Additionally, when she thinks about the possibility of gambling again, she now experiences distaste for the gambling experience because of the troubles it has caused her. Tr. at 131. When she experiences these thoughts, she will call her Boyfriend and her children and tell them when she will arrive home thus negating the opportunity to have time to gamble. Tr. at 132. Additionally, the Individual has been focusing on her studies to earn a Bachelor’s Degree, and reconnecting with her friends in social outings not

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<sup>7</sup> The Individual testified that between the Intervention and her last wager, she would go to the casino approximately once a week. Tr. at 140. During this time, the Individual gambled using money that the casino had provided on a casino rewards card. Tr. at 140-41.

involving gambling. Tr. at 132. The Individual also tries to have a schedule for each day to help her focus on things other than gambling. Tr. at 132. The Individual believes that it is not an option for her to go into a casino or to be around casinos. Tr. at 134. In sum, despite living very close to a casino, the Individual is committed to abstaining from gambling and feels that she has established sufficient boundaries and safeguards to prevent her from gambling again. Tr. at 131, 134.

The Individual fully accepts that she has a gambling problem and accepts full responsibility for difficulties that her gambling problem has caused. Tr. at 163-64. The Individual believes that she has learned from her mistakes and that she is able to fulfill the responsibilities that the Department of Energy had previously entrusted her with. Tr. at 164.

At the hearing, the Counselor testified that she is a licensed professional clinical counselor who has a Master's Degree in counseling psychology and has been certified by the [State] Association for Problem Gambling. Tr. at 44-45, 52. The Counselor has been seeing the Individual since February 2012. Tr. at 45. Initially, beginning in February 2012, she saw the Individual on a weekly basis but now sees the Individual every other week. Tr. at 45.

The Counselor agreed with the DOE Psychologist's diagnosis of Pathological Gambling. The Counselor's initial work with the Individual focused on the Individual's gambling problem. Tr. at 46, 69. From the beginning of their sessions, the Individual was receptive to the Counselor's suggestions, including participation in GA, and was willing to make changes in her life. Tr. at 47. From their first meeting, the Counselor perceived that the Individual felt as if she had hit "rock bottom" and that she was "extremely willing" to do anything the Counselor suggested. Tr. at 47.

In assessing the Individual's progress in counseling, the Counselor opined that the Individual is now doing everything necessary to recover from her gambling problem. Tr. at 49. The Counselor's overall impression is that the Individual has been honest with her and has demonstrated bravery in turning over control of her finances to others. Tr. at 49-50. During the course of their therapy, the Counselor observed that the Individual has embraced the GA program, obtained a sponsor, and has shown willingness to work the 12 steps of the GA program. The Counselor noted that the Individual has developed an ability to discuss her feelings and problems with others. Tr. at 50, 63, 71-72. Throughout the administrative review process, the Individual has handled the associated stress well without gambling. Tr. at 64. In the nine months of their therapy sessions, the Counselor has observed a great deal of change in the Individual in a relatively short time and believes that the Individual is well on her way to recovery. Tr. at 50.

While the Individual occasionally has thoughts about returning to gambling, the Counselor observed that the Individual is able to slow her thoughts down sufficiently so that she can think about the negative consequences of gambling. Tr. at 54. In the past, feelings such as fear or sadness would cause the Individual to cope with her feelings by gambling. However, the Counselor has now observed the Individual using techniques such as waiting for the negative feelings to pass, talking to the Counselor or another person, or distracting herself with activities such as reading, to avoid gambling. Tr. at 55-56. The Counselor believes that, because the Individual can now tolerate negative feelings and resolve them without gambling, she is at low

risk to return to gambling. Tr. at 55-56. Overall, the Individual is leaving the stage of early recovery and transitioning into long-term continued recovery. Tr. at 58. The Counselor believes the Individual would benefit from another one or two years of counseling to deal with her other emotional issues that may have contributed to her gambling. Tr. at 61. As of the date of the hearing, the Counselor has observed the Individual making significant progress in these other issues. Tr. at 75-76.

The GA Leader testified that she is a volunteer GA meeting leader and a sponsor for people participating in GA, although she is not the Individual's sponsor. Tr. at 81, 83. The Individual attends the meetings the GA Leader leads. Tr. at 82. The GA Leader explained that GA is a 12-step program designed to help people free themselves from addiction to gambling. Tr. at 82. When the Individual first began attending GA meetings, the GA Leader met with the Individual on a number of occasions. Tr. at 83. The Individual has the GA Leader's phone number and she is available to talk with the Individual 24 hours a day. Tr. at 83.

In the GA Leader's opinion, the Individual has worked harder than the majority of the people who attend her GA meetings. Tr. at 84. In the GA process, the GA Leader usually suggests that new attendees find a trusted person to control his or her finances. Tr. at 84. People who can find the strength to turn over their finances to another, despite the humiliation, show their willingness to do whatever it takes to help to control their addiction. Tr. at 84. The Individual also agreed to have someone drive her to her initial GA meetings in order to avoid potential "roadblocks" to her recovery. Tr. at 85.

When the GA Leader first met the Individual, the Individual's life appeared to be in shambles and the Individual would cry often. The Individual at that time also demonstrated difficulty in making decisions. Tr. at 85. The GA Leader noted that the Individual has improved so much that she was able to tell the GA Leader directly that she was going to choose another person to be her GA sponsor. Tr. at 85-86. At GA meetings, the Individual usually listens and takes notes. Tr. at 86. The GA Leader was also impressed by the fact that the Individual was working the GA program so intensely, she failed to realize that it was her nine month "birthday" in recovery. Tr. at 87. In this regard, the GA Leaders believes that the Individual is one of the hardest working people in her GA group. Tr. at 92. Overall, in the GA Leader's opinion, the Individual will not relapse as long as she keeps working the GA program. Tr. at 88.

The Individual's Boyfriend testified that he lives with the Individual and suspected that the Individual might have a problem with gambling 14 or 15 months ago. Tr. at 10. In February 2012, during the Intervention, the Boyfriend, the Individual, and her mother discussed Individual's financial situation and the Individual agreed to give control of her finances to the Boyfriend and her mother. This measure was meant to ensure that the Individual would not use her money to gamble. Tr. at 15-16. After two months, in April 2012, the Boyfriend gave the Individual control over her finances by giving her total access to debit cards, instead of having to check with her Boyfriend regarding spending for an item.<sup>8</sup> Tr. at 16-17, 33.

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<sup>8</sup> The Boyfriend still occasionally monitors the Individual's spending by reviewing her debit card statements. Tr. at 33.

The Boyfriend affirmed the Individual's testimony that the Individual attends GA meetings two times a week and now has a GA sponsor. Tr. at 35, 37. The Boyfriend has noticed changes in the Individual's behavior since she has stopped gambling. The Individual is now at home more often and has been studying for a college degree. Tr. at 20. The Individual will call the Boyfriend to let him know when she is leaving work. Tr. at 20. Additionally, the Individual will spend more time at home reading. The Boyfriend feels that his relationship with the Individual is better. Tr. at 32. As of the date of the hearing, both the Boyfriend's and the Individual's finances are sound. Tr. at 30-31. Based upon his personal experiences of quitting cigarettes, the Boyfriend is convinced that the Individual has made the decision to quit gambling forever. Tr. at 40-41.

The Individual's Supervisor has worked with the Individual for three years and believes that she is a very intelligent and competent worker. Tr. at 98. In the last rating period, the Individual was given the highest marks for her workplace performance. Tr. at 98, 104. The Individual has always demonstrated sound judgment while at work. Tr. at 105-06. In the Supervisor's opinion, the Individual is a reliable and trustworthy person. Tr. at 99.

After listening to all of the hearing testimony, the DOE Psychologist testified as to his current opinion of the Individual's condition. Tr. at 171. The DOE Psychologist believes that the Individual is currently taking every step possible to rehabilitate herself from her gambling problem. Tr. at 172. Further, he was impressed by the Individual's attitude that she is not cured from her addiction but that she now can control her addiction. Tr. at 172-73. However, in the DOE Psychologist's opinion, the Individual's addiction to gambling was "strong." Tr. at 172. He bases this conclusion on the Individual's description, during his clinical evaluation, of what she felt at a casino when her addiction started – that she experienced a sensation of her brain being rewired.<sup>9</sup> Tr. at 172; *see* Ex. 4 at 3. The DOE Psychologist's "biggest concern" was that the Individual's control was sufficiently weak to require that others take over her finances. Tr. at 173. Additionally, the DOE Psychologist noted that the Individual has other emotional issues, such as setting limits for herself and expressing negative feelings, which she is currently addressing with her Counselor.<sup>10</sup> Tr. at 175-76. As of the date of the hearing, the DOE Psychologist would have "moderate" confidence in the Individual not relapsing. Tr. at 178. With an additional four months of abstinence from gambling and overspending (totaling 12 months of abstinence), the DOE Psychologist would have a higher degree of confidence that she will be rehabilitated. Tr. at 174-78. In this regard, the DOE Psychologist noted that a full 12 months of abstinence would allow the Individual go through "the various kinds of stresses and triggers" that might cause the Individual to relapse. Tr. at 67-68. Tr. at 174. In sum, the DOE Psychologist reaffirmed his opinion in the Report that the Individual needs 12 months of abstinence from gambling and overspending to demonstrate sufficient evidence establishing that she is now rehabilitated from her Pathological Gambling disorder. Tr. at 173.

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<sup>9</sup> The Counselor testified that, in her opinion, the Individual description of being rewired was typical of someone who develops an addiction and that since the Individual has stayed away from casino environments "that wiring has cooled off to some extent." Tr. at 59-60.

<sup>10</sup> The DOE Psychologist approved the Counselor's efforts to resolve issues that may have caused the Individual to use gambling to "blot out" feelings. Tr. at 178. The DOE Psychologist noted a concern that the Individual's therapy may not go deep enough to address an emotional issue that the Individual is a very responsible person but gets little reward in return. Tr. at 178.



The Individual's efforts to date are laudable and I am convinced from all the testimonial evidence, expert and lay, that she has acknowledged her gambling addiction and is making progress in her recovery efforts. The expert witnesses in this case both believe that the Individual has worked hard and is doing what is required to resolve her gambling problem. As recounted above, the DOE Psychologist believes that 12 months of abstinence should be required to establish rehabilitation, where as the Counselor believes that the Individual's current eight months of abstinence along with her counseling and GA program participation indicates that the Individual has a low risk of relapse.<sup>11</sup> Both experts testified that there is little scientific evidence or studies that have determined what is the optimum treatment for problem gambling. Tr. at 69, 185.

After weighing all of the evidence, I find that the Individual, as of the date of the hearing, has not presented persuasive evidence to demonstrate rehabilitation from her gambling problem. I make this finding, fully aware that the Individual's Counselor believes that the Individual presents a "low" risk of relapse and of the tremendous progress that the Individual has made in addressing her problem. However, I note the DOE Psychologist assessment that the Individual's period of abstinence as of the date of the hearing, was relatively short, approximately eight months.<sup>12</sup> As the DOE Psychologist has pointed out, requiring an abstinence period of 12 months would, in the present case, give better assurance that the Individual has experienced the full range of the ordinary life events that might prompt the Individual to relapse. Further, the intensity of the Individual's initial experience with gambling, as described by the Individual and interpreted by the DOE Psychologist also argues for a lengthier period of abstinence. I also note that the Individual is receiving continued therapy for other emotional problems that may have contributed to her gambling problem. These problems, as of the date of the hearing, are still being resolved through counseling with the Counselor. Consequently, I do not believe that, as of the date of the hearing, there is adequate evidence for me to make a finding that the Individual has resolved the security concerns raised by her gambling problem.

## **2. Criterion L – Financial Difficulties and 2012 Bankruptcy Petition**

The Individual asserts that her financial difficulties and her 2012 Bankruptcy Petition were caused solely by her Pathological Gambling and that her financial situation is now stable and her financial problems will not reoccur given her rehabilitation from Pathological Gambling.

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<sup>11</sup> The DOE Psychologist did not specifically include continued therapy with the Counselor as a requirement for the Individual to demonstrate adequate evidence of rehabilitation. See Tr. at 177-78.

<sup>12</sup> While the finding of rehabilitation from pathological gambling is not a mechanistic determination based solely upon length of abstinence, *see* 10 C.F.R. § 710.7(a), I note that individuals with longer periods of abstinence are generally more likely to be found as rehabilitated in our prior decisions. *See, e.g., Personnel Security Hearing, Case No. PSH-12-0055 (2012)* (OHA Hearing Officer Decision listing Pathological Gambling cases where abstinence periods from four to 14 months were found not to be sufficient in themselves to allow a finding of rehabilitation); *but see Personnel Security Hearing, Case No. TSO-0298 (2005)* (individual found to be rehabilitated with 12 months abstinence); *Personnel Security Hearing, Case No. TSO-0615 (2008)* (three months); *Personnel Security Hearing, Case No. TSO-0663 (2008)* (over one year); *Personnel Security Hearing, Case No. TSO-0879 (2010)* (almost one year); *Personnel Security Hearing, Case No. TSO-1090 (2011)* (nine months).

The Individual testified that by January 2012, she was struggling to pay the minimum payments on her “payday” loans she had taken out to enable her gambling. Tr. at 120. In paying the minimum payment on her loans, the Individual would not have money to pay for food or rent. Tr. at 120. After reaching out to her Boyfriend, mother and sister, the Individual made a list of all the loans she had taken out to cover the expenses of her gambling. Tr. at 146. The Individual had taken approximately 11 “payday” loans. Tr. at 147.<sup>13</sup> Both her mother and her Boyfriend advised her that there was any other practical way to resolve these credit issues other than a Bankruptcy Petition since the “payday” loan holders would not negotiate any kind of practical loan repayment plan. Tr. at 155. The Individual testified that her bankruptcy was final as of July 2012. Tr. at 114.

The Boyfriend testified that, at the time of the Intervention with the Individual, he explored possibilities for restoring the Individual’s financial situation. Tr. at 13. After contacting the Individual’s “quick” loan creditors, he found that none would compromise and that the rates of interest each of the creditor charged for the loans would make it impossible for the Individual to repay these loans given the Individual’s income and living expenses. Tr. at 13. Given the Individual’s financial status, he affirmed that he and the Individual’s mother recommended that the Individual declare bankruptcy. Tr. at 14.

Both the Individual and her Boyfriend testified that the Individual, as of April 2012, is in control of her finances and, since the Intervention in February 2012, the Individual has been stable financially and has experienced no financial problems. Tr. at 16-18, 33, 154, 163.

Based upon the evidence and testimony presented in the record, I find that the Individual’s 2012 Bankruptcy Petition resulted from the Individual’s gambling disorder. An examination of the Individual’s Chapter 7 Petition indicates that most of the approximately \$12,000 of unsecured debt that was sought to be discharged in the bankruptcy consisted of various “quick” or “payday” loans many amounting to approximately \$500. Ex. 6. The evidence demonstrates that these loans were taken out to enable the Individual to gamble or to pay life expenses she was unable to afford because of gambling losses. There is no evidence indicating that the Individual’s recent financial problems were caused by overspending outside of her gambling.<sup>14</sup>

The security concern arising from the 2012 Bankruptcy Petition comes from the circumstances surrounding the Individual’s bankruptcy and her attendant financial problems. *See Personnel Security Hearing*, Case No. PSH-12-0069 (2012); *Personnel Security Hearing*, Case No. VSO-0509 (2002); *Personnel Security Hearing*, Case No. VSO-0414 (2001), *aff’d*, OSA, (2001). Because I find that the Individual’s gambling problem is the underlying factor which caused her 2012 Bankruptcy Petition, I must conclude, given my finding above regarding the state of the

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<sup>13</sup> These “payday” or “quick” loans customarily were in the amount of \$500 each. Tr. at 147.

<sup>14</sup> The record indicates that the Individual had two other bankruptcies in 1987 and 2000. Tr. at 146. These bankruptcies were not cited by the Local Security Office in the Notification Letter. The Individual testified that the 1987 bankruptcy was caused by her own irresponsibility using credit cards at the age of 25. Tr. at 146. The second bankruptcy was caused by her then-husband’s job loss and spending habits. Tr. at 184, Ex. 4 at 2. Until the Individual’s gambling problem became critical, there is no evidence that the Individual was financially irresponsible during the 10 years prior to her gambling problem.

Individual's rehabilitation from her gambling problem, that the Criterion L concerns arising from the 2012 Bankruptcy Petition have not yet been resolved. Additionally, there is inconsistent evidence in the record as to when the Individual regained total control of her finances. *Compare* Ex. 4 at 4 (Report indicating that, as of his July 2012 examination of the Individual, she was not in total control of her finances) *with* Tr. at 16-17, 33 (Boyfriend's testimony that Individual regained control of finances in April 2012). In any event, it is significant that the Individual has apparently been in control of her finances, as of the date of the hearing, for a short period. In light of the recency of the 2012 Bankruptcy Petition, I find that the Individual needs to demonstrate a longer period of demonstrating financial responsibility to support a finding that the Individual's Criterion L financial concerns have been resolved. *See Personnel Security Hearing*, Case No. PSH-12-0069 (2012) (individuals need to demonstrate a sustained pattern of financial responsibility to mitigate a concern raised under Criterion L for financial irregularities).

#### **IV. CONCLUSION**

Upon consideration of the entire record in this case, I find that there was sufficient evidence to raise doubts regarding the Individual's eligibility for a security clearance under Criteria H and L of the Part 710 regulations. Further, I find that the Individual has not presented sufficient evidence to resolve the concerns raised by the Criteria H and L derogatory information. Therefore, I cannot conclude that restoring the Individual's 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). 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.

Richard A. Cronin, Jr.  
Hearing Officer  
Office of Hearings and Appeals

Date: December 20, 2012