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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: June 3, 2022 ) Case No.: PSH-22-0097  
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Issued: October 11, 2022

**Administrative Judge Decision**

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual should not be granted access authorization.

**I. BACKGROUND**

On April 26, 2021, the Individual signed and submitted a Questionnaire for National Security Positions (QNSP) in connection with seeking access authorization. Exhibit (Ex.) 11 at 55. The Individual disclosed on the QNSP that he had previously incurred substantial gambling losses, voluntarily placed himself on a state-administered list of problem gamblers prohibited from entering casinos (Prohibited Gambler List), and was cited for trespassing for entering a casino while on the Prohibited Gambler List. *Id.* at 32–33, 40–41. The Individual also disclosed that he owed unpaid federal and state personal income taxes, owed back child support after having previously fallen into delinquency on child support payments, and was delinquent on numerous consumer debts. *Id.* at 41–52.

A background investigation of the Individual's eligibility for access authorization revealed that he had borrowed money from relatives on multiple occasions to meet his financial obligations due to gambling losses. Ex. 12 at 105–06. On January 31, 2022, the Individual met with a DOE-contracted

<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

psychologist (DOE Psychologist) for a clinical interview. Ex. 9 at 2.<sup>2</sup> During the clinical interview, the Individual admitted to travelling out of state to gamble prior to 2012 during the time in which he was on the Prohibited Gambler List in the state in which he resides. *Id.* at 3. On February 4, 2022, the DOE Psychologist issued a psychological assessment (Report) in which he opined that the Individual met the diagnostic criteria for Gambling Disorder, in recent remission, under the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*. *Id.* at 6.

The LSO issued the Individual a letter in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline F (Financial Considerations) and Guideline I (Psychological Conditions) of the Adjudicative Guidelines. Ex. 1.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative hearing. The LSO submitted twelve exhibits (Ex. 1–12). The Individual submitted eight exhibits (Ex. A–H). The Individual testified on his own behalf and offered the testimony of four character witnesses. Hearing Transcript (Tr.) at 3, 11, 21–22, 28, 38, 50. The LSO offered the testimony of the DOE Psychologist. *Id.* at 3, 101.

## **II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

The LSO cited Guideline F (Financial Considerations) as the first basis for its determination that the Individual was ineligible for access authorization. Ex. 1 at 1–2. “Failure 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 or sensitive information.” Adjudicative Guidelines at ¶ 18. The SSC cited: four delinquent debts on which the Individual owed \$1,780; the Individual’s delinquency on child support payments on which he owed \$2,900; unpaid federal personal income taxes in the amount of \$5,881 and unpaid state personal income taxes in the amount of \$235; gambling losses of approximately \$60,000 which impaired the Individual’s ability to pay rent and utilities; and that the Individual borrowed money from relatives to meet his obligations because of gambling losses. Ex. 1. The LSO’s allegations that the Individual demonstrated an inability to satisfy debts, had a history of failing to meet financial obligations, engaged in frivolous or irresponsible financial practices, failed to pay federal and state personal income taxes, and borrowed money to fund gambling justified its invocation of Guideline F. Adjudicative Guidelines at ¶ 19(a), (c), (e)–(f), (h).

The LSO cited Guideline I (Psychological Conditions) as the other basis for its determination that the Individual was ineligible for access authorization. Ex. 1. “Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline.” Adjudicative Guidelines at ¶ 27. The SSC cited the DOE Psychologist’s opinion that the Individual met the diagnostic

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<sup>2</sup> The pagination of numerous exhibits submitted by the LSO does not correspond to the order in which the pages appear. This Decision cites to pages in the order in which they appear without regard for their internal pagination.

criteria for Gambling Disorder, in recent remission, under the *DSM-5*, the Individual's arrest for entering a casino after placing himself on the Prohibited Gambler List, and the Individual's out-of-state travel to gamble because he could not visit a casino in the state in which he resides. Ex. 1 at 2–3. The DOE Psychologist's determination that the Individual met the diagnostic criteria for Gambling Disorder under the *DSM-5* and the LSO's reference to behaviors indicative of pathological gambling justified the LSO's invocation of Guideline I. Adjudicative Guidelines at ¶ 28(b), (e).

### III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's 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). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Dep't of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), cert. denied, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

An individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). An individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

### IV. FINDINGS OF FACT

The Individual began gambling multiple times weekly in the late 1990s. Ex. 12 at 78. On several occasions, the Individual lost his entire paycheck gambling. *Id.* The Individual's significant gambling losses caused his relationship with his wife to suffer. *Id.* at 95; Tr. at 77. In 2003, at the urging of his wife, the Individual voluntarily placed himself on his state's Prohibited Gambler List. Ex. 12 at 78, 95; Tr. at 76–77. However, the Individual subsequently travelled out of state on several occasions to gamble at casinos. Ex. 12 at 78; Ex. 9 at 3. From 2005 to 2009, the Individual resided in a home owned by his parents without paying rent due to financial hardship from his gambling losses. Ex. 12 at 78. In 2006, the Individual and his wife divorced, and the Individual was ordered to pay child support. *Id.* at 74.

In May 2012, the Individual and a friend visited a casino in the state in which the Individual resides. *Id.* at 78. The casino reviewed the Individual's name against the Prohibited Gambler List and the Individual was cited for trespassing while attempting to leave the casino. *Id.* The Individual

pleaded guilty and was ordered to pay a \$100 fine.<sup>3</sup> *Id.* at 78–79. In June 2012, the Individual successfully petitioned to have his name removed from the Prohibited Gambler List. *Id.* at 78. The Individual resumed monthly gambling in casinos after his removal from the Prohibited Gambler List. *Id.* From 2010 to 2015, the Individual borrowed money from his parents to pay rent on several occasions because of his gambling losses.<sup>4</sup> *Id.* at 105–06; Tr. at 39–40, 46–47 (reflecting the testimony of the Individual’s mother that she loaned him money to pay rent during this period, but was uncertain as to why the Individual was unable to fully pay his rent, and that she was unaware that her husband had also loaned the Individual money).

In 2014, the Individual timely filed a state personal income tax return but failed to pay the \$235 he owed. Ex. 12 at 74. The Individual did not file a federal personal income tax return for the 2015 tax year because he did not have enough money to pay the federal personal income taxes he owed. *Id.*

In 2015, the Individual took out a \$1,227 payday loan to assist his cousin who promised to repay him. *Id.* at 75. However, the cousin did not repay the Individual. *Id.* In August 2015, the Individual was fired from his job and was unemployed for one month. Ex. 11 at 14–15. During this period of unemployment, the Individual stopped making payments on the payday loan, which was assigned to collections, and fell behind on his child support payments. Ex. 12 at 74–75.

In September 2017, the Individual was laid off from his job and was unemployed for three months. Ex. 11 at 13–14. During this period of unemployment, he was unable to make child support payments. Ex. 12 at 74. However, he continued to gamble and “once or twice” attempted to rely on gambling winnings to compensate for income he lost due to unemployment. Tr. at 72–73. From 2019 to 2021, three of the Individual’s medical bills were sent to collections: an \$89 copay which the Individual failed to pay due to oversight; an \$80 bill representing the unpaid portion of a bill the Individual paid in part; and a \$538 bill the Individual refused to pay because he disputed the portion of the bill determined not to be covered by his health insurance. Ex. 12 at 75–76.

In May 2021, the Individual was interviewed as part of an investigation of his eligibility for access authorization. *Id.* at 72. The Individual told the investigator that he was disputing the \$538 medical bill and intended to contact his other creditors to make arrangements to pay his debts. *Id.* at 74–76. The Individual estimated that he had lost \$60,000 gambling since the 1990s. *Id.* at 78; *but see id.* at 82 (indicating that the Individual revised his estimate of his gambling losses to no more than \$15,000 during a subsequent interview with the investigator); Tr. at 70 (reflecting the Individual’s testimony at the hearing that his initial statement to the investigator that he lost \$60,000 gambling was “a rough estimate” and that he sought to revise the number down, despite never having tracked

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<sup>3</sup> The Individual did not pay the fine at the time he pleaded guilty because he “didn’t have the [\$100] to pay it.” Tr. at 97. The Individual intended to timely pay the fine, but did not do so due to inattentiveness, and a warrant was issued for his arrest. *Id.*; Ex. 12 at 78–79. The Individual pleaded guilty to Failure to Appear and paid a fine in 2017 after the warrant appeared on an employment-related background check. Ex. 12 at 78–79.

<sup>4</sup> At the hearing, the Individual claimed to have borrowed money for rent due to unemployment and not gambling losses. Tr. at 71. I determined that the Individual did borrow money due to gambling losses, and not solely because of unemployment, because I credited the OPM investigator’s accounts of interviews with the Individual’s relatives, in which the investigative report indicates that they attributed the Individual’s need for rent money to gambling losses, over the Individual’s self-serving account. *Compare* Ex. 12 at 105–06 *with* Tr. at 71.

his losses, because “\$60,000, even in a decade, that’s a lot of money to lose, particularly at [his] income”).

On November 30, 2021, the Individual signed and submitted a response to a letter of interrogatory (LOI) from the LSO. Ex. 7 at 18. In his response, the Individual indicated that he was challenging each of his delinquent debts. *Id.* at 1–3. He estimated his delinquent child support obligations at \$3,535 and indicated that he would resolve the arrearage through court-ordered deductions from his paycheck. *Id.* at 3–4. He further indicated that his counsel was seeking a “final pay-off figure” for the state personal income taxes he owed for the 2014 tax year. *Id.* at 5. Regarding his gambling, the Individual reported that he limited himself to \$200 per visit to the casino, which he visited approximately twice monthly. *Id.* at 12. In a supplemental response to the LSO on December 6, 2021, he disclosed that he owed \$5,881 in federal personal income taxes for the 2015 tax year. Ex. 6 at 2.

On January 31, 2022, the Individual met with the DOE Psychologist for a clinical interview. Ex. 9 at 2. The Individual told the DOE Psychologist that he gambles for entertainment and sets himself a monthly budget of \$400 to lose gambling. *Id.* at 3. The Individual expressed the opinion that he had displayed signs of a gambling problem in 2003 when he lost several paychecks in their entirety, but had become “more diligent” in his gambling behavior. *Id.* at 3–4. He opined that he would believe that his gambling problems had reemerged if he found himself unable to pay “essential bills.” *Id.* at 5. On February 4, 2022, the DOE Psychologist issued his Report in which he concluded that the Individual met sufficient diagnostic criteria for a diagnosis of Gambling Disorder, in recent remission, under the *DSM-5*.<sup>5</sup> *Id.* at 6–7. The DOE Psychologist recommended that the Individual stop gambling, participate in outpatient treatment for Gambling Disorder on a weekly basis for twelve weeks, participate in relapse prevention sessions for an additional nine months, and relist his name on the Prohibited Gambler List. *Id.* at 7.

The Individual enrolled in gambling-related counseling in April 2022. Ex. A. According to the Individual, he did so to assess whether the DOE Psychologist’s opinion was correct. Tr. at 82–83. The Individual represented at the hearing that the counselor told him that he might have met the diagnostic criteria for Gambling Disorder at one time, but that any such condition was in remission. *Id.* at 83. The Individual’s counseling was not specifically focused on gambling, but addressed familial and workplace stressors and managing life events besides gambling. *Id.* at 85, 88.

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<sup>5</sup> The DOE Psychologist’s Report did not specify the diagnostic criteria on which he relied for his diagnosis. At the hearing, he explained that he found that the Individual met the following diagnostic criteria within the twelve months prior to the clinical interview: (3) has made repeated unsuccessful efforts to cut down or stop gambling; (6) after losing money gambling, often returns another day to get even; (7) lies to conceal the extent of involvement with gambling; and (9) relies on others to provide money to relieve desperate financial situations caused by gambling. Tr. at 109–14; AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 585 (5th ed. 2013). The DOE Psychologist opined that at the hearing that an additional diagnostic criterion – (1) needs to gamble with increasing amounts of money in order to achieve the desired excitement – might also be applicable based on the Individual’s testimony at the hearing. Tr. at 114.

As of the date of the hearing, the Individual had not satisfied any of his delinquent debts and had \$3 in savings.<sup>6</sup> Tr. at 52, 98; Ex. G; Ex. H. The Individual testified that he had retained a credit resolution company to assist him in challenging medical debts and improving his credit score. Tr. at 51–52; *see also* Ex. E (showing that the Individual retained a credit resolution company). The Individual acknowledged that he had already spent nearly \$500 challenging debts on which he estimated that he currently owed \$1,100. Tr. at 60–61. The Individual described his decision making in this regard as the product of “irrationality” and that “ego is in the way” of paying his debts. *Id.* at 61.

As of the date of the hearing, the Individual’s child support obligations had ended because his daughter reached the age of majority, and his child support arrearage had been reduced to \$1,129. *Id.* at 62–63; Ex. C at 1. The Individual’s case manager estimated that he would resolve the child support arrearage in October 2022. Ex. C at 1.

The Individual’s federal personal income tax liability for 2015 had increased to \$9,193.99 as of the date of the hearing due to penalties and interest. Tr. at 64–65; Ex. G. The Individual retained a tax professional to assist him in resolving this situation, but had not entered into a payment plan with the IRS to resolve his unpaid tax liability as of the date of the hearing. Tr. at 66–68; Ex. D (showing the Individual’s agreement with the tax professional).<sup>7</sup>

The Individual acknowledged that he had wagered and lost more money than he should have in the past, but expressed the opinion that he had avoided problematic gambling for many years based on limiting the frequency and amount of his gambling. Tr. at 78–79; *see also id.* at 16 (reflecting the testimony of a childhood friend of the Individual that the Individual denied having a gambling problem in conversations with him). He testified that he last visited a casino in April 2022 and decided that he would not return because of his dissatisfaction with the customer service at the local casino. *Id.* at 80–81. The Individual indicated that he had not placed himself on the Prohibited Gambler List, in spite of the Psychologist’s recommendation, because he did not feel that he needs to do so. *Id.* at 88–89. The Individual testified that he no longer had the desire to gamble, and that he had found other activities to occupy his time. *Id.* at 90–92.

Two of the Individual’s colleagues – a co-worker and the Individual’s supervisor – testified to his reliability and dependability in the workplace. *Id.* at 23–24, 30–33. The Individual’s mother testified that she allows the Individual access to her home, computer, and financial records which she would not do if she did not trust him. *Id.* at 42. She also testified that the Individual was diligent in repaying money that he borrowed from her. *Id.* at 43.

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<sup>6</sup> The delinquent payday loan debt was no longer listed on the Individual’s credit report, despite him not having satisfied the debt. Tr. at 52; Ex. G; Ex. H. The removal of this entry from the Individual’s credit report coincided with the end of the seven-year period for which negative information is usually reported by credit reporting agencies. Ex. 12 at 74–75 (indicating that the Individual stopped making payments on the payday loan debt in approximately August 2015); *Credit Reports and Scores*, USAGov, <https://www.usa.gov/credit-reports> (last visited Oct. 6, 2022) (indicating that credit reporting agencies generally report derogatory information for seven years).

<sup>7</sup> The Individual’s contract with the tax professional, which the Individual submitted after the hearing and about which he could not be questioned, shows that his outstanding tax liability is \$23,001. Ex. D at 1. This information suggests that the Individual owes unpaid taxes of which the LSO was unaware at the time that it prepared the SSC.

The DOE Psychologist testified that the Individual's Gambling Disorder was a permanent condition, and that the Individual should never gamble again. *Id.* at 114–15. He indicated that the Individual had not complied with his treatment recommendations and had not demonstrated rehabilitation or reformation from the Gambling Disorder. *Id.* at 103–06. He further opined that the Individual's prognosis was “[f]airly guarded, at best,” because the Individual did not recognize his gambling as problematic and therefore lacked motivation to modify his behavior. *Id.* at 106–07.

## V. ANALYSIS

### A. Guideline F

The Individual's delinquent debts, unpaid child support, unpaid federal and state personal income taxes, and gambling losses that impaired his ability to meet his financial obligations justify the LSO's invocation of Guideline F. Adjudicative Guidelines at ¶ 19(a), (e)–(f). Conditions that could mitigate security concerns under Guideline F include:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- (f) the affluence resulted from a legal source of income; and,
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

*Id.* at ¶ 20(a)–(g).

The first mitigating condition under Guideline F is inapplicable in this case because the Individual demonstrated a lengthy history of failing to meet his financial obligations due to inattentiveness or poor judgment while incurring gambling losses without which he likely would have been able to meet his obligations. This pattern of behavior recurred, albeit with lessened severity, until at least April 2022 when the Individual asserts that he stopped gambling. Given the recency and frequency of the Individual's financial mismanagement, and the extent to which his own choices

exacerbated his problems, I find that the first mitigating condition under Guideline F is inapplicable. *Id.* at ¶ 20(a).

Although brief periods of unemployment contributed to the Individual's financial difficulties, he exacerbated the situation by continuing to gamble while unemployed and did not act responsibly to resolve his financial delinquencies after he regained his financial footing. Accordingly, I find the second mitigating condition under Guideline F inapplicable. *Id.* at ¶ 20(b). The third mitigating condition under Guideline F is inapplicable because the Individual is not pursuing financial counseling. *Id.* at ¶ 20(c).

While the Individual has nearly resolved his child support arrears, the fourth mitigating condition under Guideline F is inapplicable to that obligation because the deductions from the Individual's paychecks were court ordered rather than initiated by the Individual. *Id.* at ¶ 20(d). The fourth and fifth mitigating conditions under Guideline F are inapplicable to the remaining financial delinquencies because, rather than entering into arrangements with his creditors to resolve his modest debts or asserting a reasonable basis for challenging them, the Individual has spent significant time and sums of money contesting the debts out of self-described "ego." *Id.* at ¶ 20(d)–(e).

The sixth mitigating condition is inapplicable because the LSO's allegations in the SSC do not concern unexplained affluence. *Id.* at ¶ 20(f). The final mitigating condition under Guideline F is inapplicable because the Individual has not made arrangements with the IRS or his state taxing authority to resolve his unpaid taxes and, in light of his financial difficulties, it is unclear whether he could comply with whatever payment plan these authorities might propose. *Id.* at ¶ 20(g).

The Individual has a lengthy history of avoiding responsibility for his financial obligations and compounding his financial difficulties through gambling. The Individual has largely resolved his child support obligations and intends to avoid gambling in the future. However, he has made no tangible progress with respect to resolving his substantial tax liability, his financial situation remains precarious, and his commitment to avoid gambling is too recent for me to conclude that he will not return to problematic gambling in the future. Accordingly, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline F.

## **B. Guideline I**

The DOE Psychologist's opinion that the Individual's Gambling Disorder is a condition that could impair his judgment, stability, reliability, or trustworthiness, and the LSO's reference to behaviors indicative of pathological gambling, justified the LSO's invocation of Guideline I. Adjudicative Guidelines at ¶ 28(b), (e). Conditions that could mitigate security concerns under Guideline I include:

- (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving



- counseling or treatment with a favorable prognosis by a duly qualified mental health professional;
- (c) [a] recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government [indicates] that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;
  - (d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and,
  - (e) there is no indication of a current problem.

*Id.* at ¶ 29(a)–(e).

The first two mitigating conditions under Guideline I are inapplicable because the Individual denied that he is pursuing treatment specifically related to Gambling Disorder and there is no information from his counselor as to the scope of the Individual's counseling, his compliance with the treatment plan, or his prognosis. *Id.* at ¶ 29(a)–(b).

The DOE Psychologist opined at the hearing that the Individual's Gambling Disorder is not a temporary condition, that he currently displays attitudes and behaviors indicating that he is at risk of returning to problematic gambling, and that his Gambling Disorder is not under control. The most severe consequences of the Individual's gambling appear to have occurred years prior to the clinical interview between the Individual and the DOE Psychologist, and it is not readily apparent to me why the DOE Psychologist found applicable several diagnostic criteria which appeared to apply to events that occurred many years prior to the clinical interview rather than in the previous twelve months as required for a diagnosis of Gambling Disorder. *Supra* note 5, at 5. However, the Individual's history of problematic gambling is adequate to support the DOE Psychologist's opinion in the absence of an expert opinion to the contrary. Moreover, the DOE Psychologist testified convincingly that the Individual's lack of recognition of the effects of gambling on his financial circumstances placed him at risk of returning to problematic gambling.

The Individual failed to offer a rebuttal opinion from a mental health professional that he has overcome his Gambling Disorder. Instead, he testified that he had not gambled for approximately five months and had no immediate desire to do so, and therefore that there was no indication of a current problem. The Individual's statements alone are insufficient to overcome the concerns raised by the DOE Psychologist's opinion and to carry his heavy burden to show that granting him 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). Thus, I find that the third, fourth, and fifth mitigating conditions under Guideline I are inapplicable. Adjudicative Guidelines at ¶ 29(c)–(e).

For the aforementioned reasons, none of the mitigating conditions are applicable in this case. Therefore, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline I.

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guideline F and Guideline I of the Adjudicative Guidelines. After considering all the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual should not be granted access authorization. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick  
Administrative Judge  
Office of Hearings and Appeals