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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: August 23, 2021) Case No.: PSH-21-0105
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Issued: November 30, 2021

Administrative Judge Decision

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (hereinafter referred to as “the Individual”) to hold an access authorization¹ under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled “General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.” As discussed below, after carefully considering the record before me in light of the relevant regulations 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’s access authorization should be granted.

I. Background

The Individual is employed by a DOE contractor in a position that requires her to hold a security clearance. As part of the investigation for her security clearance, the Individual completed a Questionnaire for National Security Positions (QNSP) on which she listed numerous delinquent and charged-off debts.² Ex 4. Subsequently, the Local Security Office (LSO) asked her to complete a Letter of Interrogatory (LOI). Ex. 5. Due to unresolved security concerns, the LSO informed the Individual, in a December 2020 Notification Letter, that it possessed reliable information that created substantial doubt regarding her eligibility to hold a security clearance. The Notification Letter contained an attachment, the Summary of Security Concerns (SSC), in which the LSO explained that the derogatory information raised security concerns under Guideline F (Financial Considerations). Ex. 1.

¹ Access authorization is defined 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). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

² This information is gathered from a DOE Case Evaluation. Ex. 4. For reasons that are unclear, the QNSP was not entered as an exhibit.

Upon receipt of the Notification Letter, the Individual exercised her right under the Part 710 regulations by requesting an administrative review hearing. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted 7 numbered exhibits (Exhibits 1–7) into the record. The Individual tendered ten exhibits (Exhibits A-J). She additionally testified on her own behalf. The exhibits will be cited in this Decision as “Ex.” followed by the appropriate numeric designation. The hearing transcript in the case will be cited as “Tr.” followed by the relevant page number.

II. Regulatory Standard

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 Department 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) (strong presumption against the issuance of a security clearance).

The 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). The Individual is afforded a full opportunity to present evidence supporting her 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.

III. Notification Letter and Associated Concerns

As previously mentioned, the Notification Letter included a statement of derogatory information that raised concerns about the Individual’s eligibility for access authorization. The information in the letter specifically cited Guideline F of the Adjudicative Guidelines. Guideline F addresses “[f]ailure to live within one’s means, satisfy debts, and meet financial obligations.” Guideline F at ¶ 18. It is well established that 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. *Id.* Among the conditions set forth in this guideline that could raise a disqualifying security concern is the inability to satisfy debts. Guideline F at ¶ 19(a).

In citing Guideline F, the LSO listed 12 of the Individual’s delinquent debts, totaling \$64,821. Ex. 1. The LOS cited 7 collections accounts which consisted of the following:

1. Energy Company A: \$469

2. Phone Company: \$1,362
3. Payday Loan A: \$693
4. Car Loan: \$19,275
5. Credit Card A: \$3,386
6. Credit Card B: \$1,814
7. Payday Loan B: \$730

The LSO additionally listed five charged-off accounts which consisted of:

1. Energy Company B: \$233
2. Bank Creditor: \$886
3. Student Loan A: \$31,715
4. Student Loan B: \$4,065
5. Energy Company C: \$202.

Id.

IV. Findings of Fact

I have carefully considered the totality of the record in reaching the findings of fact set forth below.

At the hearing, the Individual sought to mitigate the Guideline F security concerns and began by explaining how she found herself in financial distress. Tr. at 9, 11. The Individual testified that, in 2007, she married her now ex-husband. *Id.* at 11-12. During the last three years of her ten-year marriage, she learned that her husband was using illegal drugs and had incurred substantial debts in her name and without her knowledge. *See id.* at 11-12. She explained that she made more money than he did, so the agreement within their marriage was that she would work while he paid the bills. *Id.* at 44. When she started receiving notices of unpaid bills, she learned that her husband was using drugs and mishandling their finances. *Id.* at 44. The Individual stated that she then filed for divorce and the divorce was finalized in 2018. *Id.* at 12. Since that time, she has been working to “fix everything.” *Id.* at 12. She explained that she has retained a law firm, and the firm is aiding her in interpreting her credit report, creating payment plans, and resolving accounts for which she is not financially responsible. *Id.* at 12-13; *see* Ex. J. The Individual added that the law firm monitors her credit and provides regular updates as to any new debts that may appear so that she can promptly resolve them. *Id.* at 43.

The Individual addressed each of the accounts listed on the Summary of Security Concerns, explaining the debt and how she has worked, or is working, to resolve it. The Individual testified that when she called Energy Company A to address the \$469 debt, she learned that the account was not associated with any address at which she lived. *Id.* at 15-16. She stated that she believed her ex-husband opened the account using her information when they separated. *Id.* at 16-17. She testified that the creditor “flagged” the account as fraudulent and removed it from her credit report.³ *Id.* at 15-16. In turning to the \$1,362 phone company debt, the Individual explained that, when she divorced her husband, the two of them agreed that they would each pay their respective parts of the phone bill. *Id.* at 18. She eventually switched phone companies, and her ex-husband stopped paying

³ Examination of current credit reports from the top three credit bureaus do not list this account. Ex. H.

his portion of the bill, which resulted in the \$1,362 debt. *Id.* at 18-19. The Individual testified that she decided to “just pay for it,” and she contacted the phone company to reach a settlement amount of \$545. *Id.* at 20; Ex. C. At the time of the hearing, the Individual had paid \$300 on this account and noted that the remainder of the bill was due and would be paid a few days after the hearing. *Id.*

Regarding the \$693 Payday Loan A, the Individual testified that she did not know the circumstances as to how this debt was created, but the creditor was able to debit the outstanding amount from the bank account she shared with her husband while they were married. *Id.* at 27-28. She explained that the debt was removed from her credit report as the creditor “ended up getting [its] money.” *Id.*⁴ In examining the \$19,275 Car Loan, the Individual testified that when she divorced her husband, he took the car associated with this loan. *Id.* at 29. She testified that, at the time, she had been laid off from her job, and her husband “was supposedly working” so she felt he could afford the payments. *Id.* The Individual stated that she ultimately settled the account herself.⁵ *Id.*

Turning to Credit Card A for \$3,386, the Individual testified that she created a payment plan with the creditor and had made the initial payment of \$465.64. 31; Ex. B. Pursuant to the payment plan, the debt would be paid by the end of 2021. Ex. B. The Individual testified that she also set up a payment plan for the \$1,814 debt on Credit Card B.⁶ Tr. at 33, 35. She stated that she paid the first \$390 installment on the payment plan and had three remaining payments, which would be completed by February 1, 2022. *Id.* at 35; Ex. J. As for Payday Loan B, the Individual surmised that her ex-husband somehow used her information to obtain the loan. *See id.* at 22, 36. She stated that she contacted the creditor and “they couldn’t find [her] signature on file.” *Id.* at 22. The Individual noted that her law firm contacted the creditor using a debt verification letter, and the creditor could not verify the debt. *Id.* She explained that the debt was later removed from her credit as it was ultimately determined that she was not responsible for it.⁷ *Id.*

After explaining the seven collection accounts, the Individual addressed the five charged-off accounts listed on the SSC. *Id.* at 36. As to Energy Company B, the Individual explained that she “had no idea” as to why the account was charged-off because she paid the bill. *Id.* at 37. She testified that she contacted Energy Company B, and they stated that they never received the payment. *Id.* As such, the Individual again remitted payment amount to the energy company. *Id.*; Ex. G. Turning to the Bank Creditor for \$882, the Individual explained that her ex-husband opened a credit card in her name and without her knowledge. *Id.* at 38. She stated that one day, she received a call from the creditor, stating that the account had been maxed out and unpaid. *Id.* When she inquired into the phone number used to open the account, the creditor revealed that it was her ex-husband’s phone number. *Id.* The Individual testified that she paid this account. *Id.*; Ex. E.

In addressing the two student loan accounts, the Individual testified that she was paying her student loans per the agreed upon payment plan; however, the creditor combined the loans and was

⁴ Examination of current credit reports from the top three credit bureaus do not list this account. Ex. H.

⁵ Examination of current credit reports from the top three credit bureaus indicate that the account has a zero balance; however, it should be noted that the credit reports are in dispute as to whether the account was charged off. Ex. H.

⁶ The Individual testified that the creditor was reporting \$1,947, while the SSC listed the debt as \$1,814. Tr. at 33, 35.

⁷ Examination of current credit reports from the top three credit bureaus do not list this account. Ex. H.

misapplying the payments. Tr. at 40. The Individual explained that she investigated the issue, settled with the creditor, and was able to have the debts removed from her credit report.⁸ *Id.* at 40-41. As for Energy Company C, the Individual testified that she was unaware as to how the account appeared on her credit report. *Id.* at 41. She stated that when she contacted the creditor and asked them to provide information that indicated that the debt was hers, the creditor was unable to do so, and the debt was removed from her credit report.⁹ *Id.* at 42.

When asked if she understood why the DOE was concerned with her financial situation, the Individual explained that her financial situation makes it appear as though she is irresponsible and cannot manage her money. *Id.* at 44. However, she testified that since finalizing her divorce and working on resolving the financial problems that her ex-husband created for her, she is “starting out new [and] recovering.” *Id.* at 11. The Individual was visibly upset throughout the hearing and described how she was both angered and embarrassed by her financial situation. *Id.* at 11, 14; *see id.* at 52. She stated that she now manages her own money, keeps reminders of when bills are due, and budgets to ensure that she can pay her bills. *Id.* at 44, 50-51.

V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony presented at the hearing. In resolving the question of the Individual’s eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. After due deliberation, I have determined that the Individual has sufficiently mitigated the security concerns, noted by the LSO, regarding Guideline F. I find that granting the Individual’s DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). Therefore, I have determined that the Individual’s security clearance should be granted. The specific findings that I make in support of this decision are discussed below.

As discussed above, failure to satisfy debts and meet financial obligations can raise security concerns with regard to an individual’s trustworthiness and reliability. Guideline F at ¶ 18. An individual may be able to mitigate the security concerns by demonstrating that the conditions that resulted in the financial problems were largely beyond the person’s control and that the individual acted responsibly under the circumstances. *Id.* at ¶ 20(b). An individual may also be able to mitigate the security concerns by demonstrating that the behavior occurred under such circumstances that it is unlikely to recur, or by showing the receipt of financial counseling from a legitimate and credible source, and showing clear indications that the problem is being resolved. *Id.* at ¶ 20(a), (c).

Here, at first glance, it appears that the Individual has been unable to satisfy her debts, *see id.* at ¶ 19(a); however, upon closer examination, it is clear that the actions of the Individual’s ex-husband in large part created the Individual’s adverse financial circumstances, a situation that was largely beyond her control. *Id.* at ¶ 20(b). Upon learning of her financial problems, the Individual retained a law firm to help contact creditors, resolve the debts, dispute fraudulent accounts, and create

⁸ Examination of current credit reports from the top three credit bureaus indicate that, although the accounts still appear on one of the credit reports, they show a zero balance. Ex. H.

⁹ Examination of current credit reports from the top three credit bureaus do not list this account. Ex. H.

payment plans. *Id.* at ¶ 20(d). With regard to the delinquent debts, the Individual has fully paid two of the accounts, established payment plans and made initial payments for three accounts, and worked to have accounts that were not her responsibility removed from her credit. *Id.* Similarly, she paid two of the collection accounts, even after they were charged off, and otherwise actively resolved the remaining three accounts. *Id.*

As is common in a marriage, the Individual put her financial trust in her husband, and unfortunately, she later learned that her trust was misplaced. Although she was left with the financial consequences of her ex-husband's actions, the Individual admirably accepted responsibility and worked to resolve the outstanding debts and problems with her credit. As such, I find that the Individual has mitigated the DOE's security concerns under Guideline F.

VI. Conclusion

After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I have found that the Individual has brought forth sufficient evidence to resolve the security concerns associated with Guideline F. Therefore, granting her access authorization will not endanger the common defense and security and is clearly consistent with the national interest. Accordingly, I have determined that the Individual's access authorization should be granted.

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

Katie Quintana
Administrative Judge
Office of Hearings and Appeals