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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: October 3, 2023) Case No.: PSH-24-0001
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Issued: January 11, 2023

Administrative Judge Decision

Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”¹ For the reasons set forth below, I conclude that the Individual’s security clearance should not be granted.

I. BACKGROUND

The Individual is employed by a DOE Contractor in a position which requires that he hold a security clearance. Derogatory information was discovered regarding the Individual’s finances. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), the Individual testified on his own behalf. *See* Transcript of Hearing, Case No. PSH-24-0001 (hereinafter cited as “Tr.”). The LSO submitted nine exhibits, marked as Exhibits 1 through 9 (hereinafter cited as “Ex.”). The Individual submitted 27 exhibits, marked with letters, starting with Exhibit A.

¹ Under the regulations, “[a]ccess authorization’ means 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 also be referred to in this Decision as a security clearance.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the Notification Letter and the attached Summary of Security Concerns informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. That information pertains to Guidelines E and F of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. 10 C.F.R. § 710.7.

Guideline E states that:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Adjudicative Guidelines at ¶ 15. Conditions that could raise a security concern include:

- (a) Deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;
- (b) Deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;
- (c) Credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information;
- (d) Credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other

characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

1. Untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
 2. Any disruptive, violent, or other inappropriate behavior;
 3. A pattern of dishonesty or rule violations; and
 4. Evidence of significant misuse of Government or other employer's time or resources;
- (e) Personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:
1. Engaging in activities which, if known, could affect the person's personal, professional, or community standing;
 2. While in another country, engaging in any activity that is illegal in that country;
 3. While in another country, engaging in any activity that, while legal there, is illegal in the United States;
- (f) Violation of a written or recorded commitment made by the individual to the employer as a condition of employment; and
- (g) Association with persons involved in criminal activity.

Id. at ¶ 16.

Guideline F states that:

[The f]ailure 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. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

Id. at ¶ 18. Conditions that could raise a security concern and may be disqualifying include:

- (a) Inability to satisfy debts;
- (b) Unwillingness to satisfy debts regardless of the ability to do so;
- (c) A history of not meeting financial obligations;
- (d) Deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud, filing deceptive loan statements and other intentional financial breaches of trust;
- (e) Consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators;
- (f) Failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required;
- (g) Unexplained affluence, as shown by a lifestyle or standard of living, increase in net worth, or money transfers that are inconsistent with known legal sources of income;
- (h) Borrowing money or engaging in significant financial transactions to fund gambling or pay gambling debts; and
- (i) Concealing gambling losses, family conflict, or other problems caused by gambling.

Id. at ¶¶ 18–19.

The LSO alleges, under Guideline F, the following concerns:

- (1) A debt to Wells Fargo Bank, for \$26,583, charged off due to non-payment with the last activity in December 2016;
- (2) A debt to Wells Fargo for \$14,200, charged off due to non-payment with the last activity in December 2016;
- (3) A debt to Discover Personal Loan for \$11,414, charged off but now in repayment;
- (4) Two debts to the U.S. Department of Education for \$7,918 and \$5,357, in collections;
- (5) A debt to Capital One for \$7,788 on a credit card, charged off for non-payment;
- (6) A debt to USAA Savings Bank for \$7,640, charged off for non-payment;

- (7) A debt to JMPC card services for \$5,223, charged off for non-payment with the last activity in December 2016;
- (8) A debt to Toyota for \$3,743, charged off and repossessed in 2017;
- (9) A debt to Synchrony Bank for \$2,873, charged off with the last activity in July 2017;
- (10) The following collections accounts identified as medical: \$1,527, \$1,025, \$864, \$249, \$222, \$139, \$97, \$65;
- (11) A debt to SYNCB/KTM for \$2,533, charged off for nonpayment and repossessed in 2017;
- (12) A debt to Credit First for \$959, charged off due to nonpayment;
- (13) A debt to Synchrony Bank for \$336;
- (14) The Individual did not begin making payments on his debt when he became fully employed again in January 2018, claiming he was dealing with medical expenses and did not want to get involved in payments he could not afford. From that time until September 2022, he did not voluntarily contact his creditors or take any voluntary action to resolve any of the listed debts.

Ex. 9 at 4–6. The LSO alleges, under Guideline E, that:

- (15) On a May 2023 Questionnaire for National Security Positions (QNSP) the Individual reported no history of security clearance investigations. However, his background investigation revealed he was notified by memo in May 2005 that information from an investigation into his personal history led to security concerns as listed in an enclosure. The statement of reasons included not reporting pending charges against him and not reporting multiple financial delinquencies (listed individually in detail). A memo dated 11/19/05 verifies that his clearance was denied;
- (16) On his May 2023 QNSP, the Individual answered “no” when asked if he had EVER been denied a clearance.
- (17) On his May 2023 QNSP, the Individual answered “no” when asked if he had any judgments against him, but his background investigation indicated that at the time he completed the May 2023 QNSP, he had the following judgments in court: Green and Sons, filed in June 2022 for \$2,861; Medical Recovery Services filed in December 2020, for \$746.31; [*****] Billings and Collections, filed in February 2020, for \$5,229; Portfolio Recovery Associates LLC, filed in February 2019, for \$2,853.06; Midland Funding, filed in May 2018, for \$4,478.90; SOFI Consumer Loan Program, filed in February 2018, for \$24,722.35; and Discover Bank, filed in November 2017, for \$11,710.36.

- (18) In that same question, the Individual answered “no” when asked if he was currently delinquent on any federal debt, but his credit summary indicated that he was delinquent on two federally guaranteed student loans;
- (19) On his May 2023 QNSP, the Individual answered “yes” regarding delinquencies involving routine accounts but listed only four of his delinquent accounts (SOFI Bank, Discovery Bank, Toyota Motor Credit, and SYNCB/KTM Retail);
- (20) On his responses to a June 2023 Letter or Interrogatory (LOI), the Individual stated that he did not have information pertaining to his judgments instead of researching the information and providing it;
- (21) The Individual should have been overly cautious in providing accurate information because he had previously been denied a clearance for this issue;
- (22) On an August 2022 QNSP the Individual listed only four delinquent accounts (SOFI Bank, Discovery Bank, Toyota Motor Credit, and SYNCB/KTM Retail). The Individual took no action on his debts in the nine months between his QNSPs;
- (23) Eight months passed between the Individual’s interview with a security clearance investigator and his responses to the LOI, during which the LSO had no evidence that he took action on his debts, leading to “questions regarding [his] honesty and the ‘whole person’ concept”;
- (24) The Individual’s Personal Financial Statement showed a net monthly remainder of \$2,011.48, but he made no attempt to voluntarily resolve any of his debts, leading to “questions regarding [his] honesty and regarding the ‘whole person’ concept”;
- (25) Much of the Individual’s debt was accumulated in 2016 for unnecessary items (snow machine, snow machine trailer, dirt bike) and the Individual admitted that he had overspent his income and was not financially responsible. An adult individual with a significant history of financial delinquencies should have been more careful regarding his spending and financial decisions. The denial of his security access in 2005 for many of the same issues should have made him more aware of the consequences of his financial decisions and the importance of honesty in reporting. This leads to “questions regarding [his] honesty and the ‘whole person’ concept.”

Ex. 9 at 6–8.

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 entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." Adjudicative Guidelines ¶ 2(a). The protection of the national security is the paramount consideration. 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 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. *Id.* at § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

In December 2016, the Individual left his full-time job to work for his father-in-law, who was experiencing significant health issues and needed daily care and logistical assistance, at a significantly lower salary. Tr. at 11–12, 21. At that time, the Individual began to have trouble paying his debts. *Id.* at 14. He and his wife expected that she would receive a large sum of money from the sale of the father-in-law's farm (hereafter referred to as her inheritance), but due to problems with the sale, she did not receive the payout when expected and still had not received it as of the hearing date. *Id.* at 12–13. The Individual returned to full-time employment in 2018, earning a commensurate salary. *Id.* at 13–14.

During his employment with his father-in-law, the Individual prioritized paying his mortgage, taxes, and insurance. Tr. at 14. He testified that his debts were accrued before his decision to leave his full-time job. *Id.* at 18. When his income dropped, the Individual almost immediately realized that he would not be able to stay current on his debt payments. *Id.* at 24. The Individual testified that he stopped driving his truck when he was no longer able to make payments on it so that it could be repossessed in the best possible condition. *Id.* at 25. He testified that he paid off some medical debts when he resumed higher salaried employment but did not contact his largest creditors to try to resolve the situation until his security clearance investigation began in 2022. *Id.*

The Individual testified that when he completed his QNSPs, he knew he had not listed all his debts, but he thought there would be time to add more information during the investigation process. Tr. at 27–28. During his investigation, he stated that he listed the four accounts because he believed they were the biggest ones. Ex. 5 at 34. Since that time, he had learned how to research his debts and find out if there were any judgments against him. Tr. at 62. At his security clearance interview,

the Individual stated that he had judgments, past due debts, and past due federal debts before being presented with the specific information he had omitted from his QNSP. Ex. 5 at 26–27. He testified that when the investigator for his security clearance brought up each debt in an interview, he did not remember some of them, but he did not deny any of them. Tr. at 28, 62. The investigator showed him how to locate some of his debts, and from there, the Individual was able to find out how to resolve them. *Id.* at 63. He testified that he became motivated to aggressively pay his debts when he realized they would likely stop him from getting a security clearance. *Id.* at 61. The Individual stated that without a security clearance, he could not perform his job and would risk losing his home and family if he could not work. *Id.*

The Individual testified that though he did not begin paying down his large debts as soon as he was asked about them on his QNSP, he was making an effort to demonstrate his financial responsibility by continuing to pay his current debts on time and not taking out further lines of credit. Tr. at 53–54. He paid some medical debts when he returned to a higher paying job, including a collection account for about \$4,200 that he paid with funds from his 401k, and settled some of his debts after speaking with the security clearance investigation interviewer. Ex. 5 at 26, 40. He began resolving his largest debts in September 2023 using a home equity loan from his in-laws. *Id.* at 43–44; 55–61; Ex. A.V. The Individual’s new mortgage payment, \$880 per month, was still affordable. Tr. at 58; Ex. 8 at 19–21. The Individual satisfied all of his debts but one before the hearing; the one unsatisfied debt, originally with KTM, was no longer with the original creditor and the Individual had not been able to locate the current lender before the hearing date. Tr. at 32–33; Ex. A–Ex. L; Ex. A.V.

The Individual had told his in-laws everything about his financial situation and the administrative review process just so they would know what was happening with his job, not to ask for money. Tr. at 76–77, 108–09. He testified that his father-in-law expressed some guilt when he found out that the Individual had put himself in financial trouble to help on the farm, but then became very serious about how the Individual had put his family at risk. *Id.* at 76. The Individual testified that in 2016 he was not aware that his in-laws had the money to help him and admitted that he should have been candid with them about his financial situation right away. *Id.* at 79. Had he known that they could help him, he would have asked for help in 2016. *Id.* at 109–10. He testified that if he could go back in time, he would not have put himself in that difficult financial position. *Id.* at 81.

The Individual testified that his decision to refinance his home to pay his debts was part of a pattern of financial responsibility. Tr. at 71. Since returning to higher salaried employment in 2018, the Individual had not put himself in further financial jeopardy. *Id.* His only new lines of credit were for credit cards used for work travel that were paid in full immediately upon returning home. *Id.* at 54–55, 71. He had not purchased any recreational vehicles or other expensive luxury items as he did before his financial problems peaked. *Id.* at 71. All of his family’s vehicles were completely paid off. *Id.* at 72. The Individual testified that he had maintained his mortgage payment even during his period of financial difficulty. *Id.* He further testified that he did not file for bankruptcy because he always intended to repay his debts when his wife received her inheritance check. *Id.* at 72–73.

The Individual testified that he took an online, self-paced financial skills course from a Brigham Young University in the weeks before the hearing. Tr. at 69. The course taught him about

budgeting and helped him identify where he was spending his money each month. *Id.* at 89. It focused on how small purchases, such as subscriptions or gas station items, could quickly add up to more money than expected. *Id.* The Individual testified that he learned “accountability for every penny” in his budgeting process and to continuously review his obligations to find bills, particularly subscriptions, that he no longer needed. *Id.* at 89–90.

At the hearing, the Individual pointed out that his June 2023 Final Case Evaluation from DOE, in which DOE listed its concerns and whether they had been mitigated, stated that the security concerns raised under Guideline E had been mitigated. Tr. at 49–52; Ex. 6 at 1. That document only found mitigated the concerns about the Individual’s prior clearance denial in 2005, which is referenced in concerns 15, 16, 20, and 25 on the Summary of Security Concerns, not to the Individual’s lack of candor on his QNSP. Ex. 6. During his time in the military, the Individual served two tours of combat; received an Army Commendation Medal and an Army Achievement Medal; received two Good Conduct Medals for exemplary behavior, efficiency, and fidelity; and received an honorable discharge. Tr. at 65; Ex. T; Ex. U; Ex. R; Ex. S; Ex. Z.

The Individual testified that he did not realize that the two QNSPs that he filled out in 2022 and 2023 were separate. Tr. at 84–85. He further testified that he filled out the QNSP over several evenings and that when he hit “Save,” the section he had been working on appeared complete when he came back to it the next time. *Id.* at 87–88. The Individual took responsibility for not reporting everything accurately on his QNSP and also for not researching thoroughly before giving his answers. Tr. at 74. Since then, he had accurately completed several detailed forms for his DOE employment. *Id.* at 94–95. He was able to explain one of the site’s safety procedures in appropriate detail, omitting any classified or controlled information, to show that he had been able to focus on the documents and retain the important information contained therein. *Id.* at 96–99. He understood the seriousness of following the procedures, commenting that safety procedures were a matter of life or death in many cases. *Id.* at 99.

The Individual testified that he would never be in financial jeopardy again the way he was in 2016. Tr. at 90. He testified that if faced with a similar situation, he would try to find another solution or stipulate that his financial obligations had to be met before he could help. *Id.* at 101–02. He added that he did not go through two combat tours with the Army just “to sell the country out now.” *Id.* at 91. He understood that financial issues could be used as leverage to gain information or access. *Id.* at 100–01. He also testified that apart from the security concern, he understood that he needed to follow DOE’s rules no matter the situation, including meeting his financial obligations. *Id.* at 101.

Debts Listed in the Notification Letter

The following describes the evidence and testimony presented by the Individual regarding his efforts to resolve the delinquencies listed on the Summary of Security Concerns:

- a. Wells Fargo \$26,583: About seven months before leaving his job in 2016, the Individual had taken out a home improvement loan to create more space in his home after he and his wife had an additional child. Tr. at 16–17. The Individual settled the debt on October 2, 2023. Ex. B; Ex. K.

- b. Wells Fargo \$14,200: In June 2016, the Individual took out a home improvement and debt consolidation loan to finish his home remodel and to pay down his debt. Tr. at 18. The Individual settled the debt on October 2, 2023. Ex. A.
- c. Discover \$11,414: The Individual settled the debt on October 6, 2023. Ex. E. The judgment against him for that debt was released on October 30, 2023. Ex. F.
- d. U.S. Dept. of Education \$7,918; \$5,357: The Individual got behind on his student loans because he thought they had been forgiven during the COVID-19 pandemic when, actually, the payments had only been paused. Tr. at 40–41. He settled his consolidated student loan debts on October 17, 2023. Ex. I; Ex. A.U; Ex. A.V at 1.
- e. Capital One \$7,788: The Individual paid the debt in full in early October 2023. Ex. C. The judgment against him for that debt was released on October 23, 2023. Tr. at 43; Ex. D.
- f. USAA \$7,640: The Individual paid the debt in full in late September 2023. Tr. at 43–44; Ex. O.
- g. JPMC \$5,223: The Individual satisfied the debt in early October 2023. Tr. at 44; Ex. N.
- h. Toyota \$3,743: The Individual fell behind on his truck payments when he began working for his father-in-law. Tr. at 19–21. He kept up payments for a time, but the truck was repossessed in July 2017. *Id.* The Individual paid the debt in full on October 4, 2023. *Id.* at 45–46; Ex. A.V at 1.
- i. Synchrony \$2,873: The Individual paid the debt in full on October 4, 2023. Tr. at 47; Ex. P; Ex. A.V at 1.
- j. Medical \$1,527; \$1,025; \$864; \$249; \$222; \$139; \$97; \$65: The Individual satisfied the debts in mid-October 2023. Tr. at 47; Ex. A.V at 1.
- k. KTM \$2,533: The Individual purchased a dirt bike prior to working for his father-in-law. Tr. at 25. When his truck was repossessed, he told the collector that he was behind on his dirt bike so it could be repossessed at the same time. *Id.* The Individual testified that the KTM call center told him the debt had been forgiven in 2022 and that they would send him a 1099-C tax form, but the Individual never received the form and was waiting for further documentation. *Id.* at 33. He testified that he was holding money in reserve to pay the debt or the taxes on the forgiven balance once he received the 1099-C, depending on the circumstances. *Id.* at 34, 107.
- l. Credit First \$959: The Individual opened a line of credit to pay for new tires in February 2016. Tr. at 47; Ex. 5 at 40. He did not originally recognize the creditor, but settled the debt the same day the security clearance investigator contacted him about the debt. Ex. 5 at 40.
- m. Synchrony \$336: The Individual satisfied the debt on October 2, 2023. Tr. at 48; Ex. M; Ex. 5 at 14–15. The associated judgment was released on October 20, 2023. Ex. L.

- n. SOFI \$12,361: The Individual settled a debt to SOFI Bank—which was not listed on the Summary of Security Concerns as a delinquency or judgment of concern under Guideline F—on October 6, 2023. Ex. G; Ex. J. The associated judgment was released on October 30, 2023. Ex. H; Ex. 5 at 29–30.

V. ANALYSIS

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government places a high degree of trust and confidence in individuals to whom it grants access authorization. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

The issue before me is whether the Individual, at the time of the hearing, presents an unacceptable risk to national security and the common defense. I must consider all the evidence, both favorable and unfavorable, in a commonsense manner. “Any doubt concerning personnel being considered for access for national security eligibility will be resolved in favor of the national security.” Adjudicative Guidelines ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Because of the strong presumption against granting or restoring security clearances, I must deny access authorization if I am not convinced that the LSO’s security concerns have been mitigated such that granting the Individual’s clearance is not an unacceptable risk to national security.

A. Guideline E

Conditions that can mitigate Guideline E concerns include:

- (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment;
- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors,

- circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
 - (f) The information was unsubstantiated or from a source of questionable reliability; and
 - (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶17. Condition (c) applies to some of the allegations underlying the Guideline E concerns in this case, but is not sufficient to mitigate all of them.

Regarding condition (c), the LSO's allegations regarding the denial of the Individual's clearance application in 2005, and the associated omissions from the Individual's 2023 QNSP, do not cast doubt on his judgment, reliability, and trustworthiness. The Individual testified that he did not remember he had been considered for a security clearance while in the military. He also testified that he did not know his clearance application went through an administrative review process, and there is no indication that his duties changed as a result of his denial. Therefore, I find that his omission of this information from the 2023 QNSP does not reflect poorly on his judgment, reliability, or trustworthiness. I find that the Individual has mitigated Guideline E concerns (15), (16), and (21) under condition (c).

Guideline E places special emphasis on failure to cooperate and failure to properly disclose information during a security clearance investigation. If information is hidden from investigators, individuals with serious vulnerabilities may end up with access to protected information, which is a serious security concern. In this case, the Individual knowingly failed to disclose all of his past due debts on two separate QNSPs in 2022 and 2023, failed to disclose that he had judgments entered against him in the past 7 years, and failed to disclose that he was delinquent on two federal student loans. With regard to the non-federal delinquencies, the Individual testified that he knew he omitted some of them from the QNSPs, but thought he would have time to add the remaining debts at a later date. Nonetheless, he made no effort to correct his QNSPs before being confronted with the omitted delinquencies by DOE. The Individual's testimony that he did not intend to hide his debts may have some merit, but there is little in the record to support that testimony. I still have doubts about the Individual's reasons for omitting most of his delinquencies on his QNSP and I am not fully convinced that he is being completely candid now.

With regard to the judgments and the delinquent federal debt that he omitted from the QNSPs, the Individual claimed that he was not aware of the judgments, and that he believed the delinquent student loans had been forgiven. While these claims may be true, the fact remains that the Individual, once made aware of these debts and judgments, did not cooperate with DOE's requests for status updates in the LOI, or demonstrate that he had taken any action to

resolve them. The Individual claimed on his personal financial statement that his income left him with more than \$2000 a month after expenses, yet he still did not take action to resolve almost any of his delinquent accounts until just weeks before the hearing. While commendable that he did so, the Individual's failure to fully cooperate and provide DOE with complete and accurate information throughout the security clearance process casts serious doubt on his judgment and reliability that has not been resolved.

The Individual testified that his omissions were the result of carelessness and lack of knowledge about where to find the needed information. Competence and proper care in completing documents are important because DOE needs to be able to trust what its employees record. Although the Individual testified that he now understands the seriousness of accurately filling out documents and following procedures to the letter, he has a pattern of improperly completing forms and failing to correct known errors. The Individual has improved his ability to accurately obtain and provide financial information, but that does not account for his decision not to correct his QNSPs or even simply note on the QNSP that he had more debts but did not know how to find them. I am also not convinced that the Individual would properly handle a similar lack of knowledge in the future. Without the consequences of an administrative review proceeding as motivation, the Individual likely would not have undertaken education efforts and I am not convinced that he would similarly educate himself in the future without a serious consequence as a motivator.

Whether his omissions were a deliberate attempt to hide his debts or they were the result of carelessness and lack of knowledge, the Individual has not presented evidence sufficient to ensure that his statements can be trusted in the future. I am required to resolve any doubt in favor of the national security and, therefore, I find that the Individual's omissions and failure to cooperate in the security clearance process still cast doubt on his judgment, reliability, and trustworthiness. Accordingly, I find that the Individual has not mitigated the Guideline E concerns (17), (18), (19), (20), (22), (23), (24), and (25).

For the foregoing reasons, I cannot find that the Individual has fully mitigated the Guideline E concerns.

B. Guideline F

Conditions that could mitigate Guideline F security concerns 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; and
- (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.

Administrative Guidelines at ¶ 20 (a)–(e). Conditions (a) and (d) apply in this case.

Regarding condition (d), the Individual has made a good-faith effort to repay his creditors and resolve his debts. He has resolved all of his outstanding debts and judgments except for one, which he has tried to resolve. Though the creditor stated that the debt was forgiven, the Individual still holds enough funds in reserve to pay the taxes on the forgiven debt or to pay the debt itself should he find out in the future that it was not forgiven.

Because the Individual has fully resolved all debts that he could pay and has prepared for the possibility of having to pay the one remaining debt if it turns out not to be resolved, I find that the Individual made a good-faith effort to repay his creditors and resolve his delinquencies. Accordingly, I find that he has mitigated concerns (1) through (13).

Regarding condition (a), the Individual has taken the LSO's concerns seriously, despite his slow start, and resolved each debt. The Individual has demonstrated since 2018 that he can live within his means and has not incurred new delinquencies since returning to higher paying employment. While the Individual should have been paying something toward his delinquencies during that time, he did manage to stay current on his travel cards and medical bills. Additionally, he has now resolved his delinquencies in a manner that likely ensures accountability in the future by using his home as collateral. He has an increased mortgage payment, but he maintained his mortgage even when he was working for his father-in-law, making it unlikely that he will fall behind on it in the future, and his budget shows that he has sufficient funds to afford his new monthly payment. The Individual has resolved his old debt and shown over the past five years that he can spend within his means. His home equity loan is evidence that he does not plan to miss payments in the future; the consequences for default would be dire. For these reasons, I find that it is unlikely that the Individual will take on large debt burdens or ignore outstanding bills in the future. Accordingly, I find that concern (14) is mitigated.

VI. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual's eligibility for access authorization under Guidelines E and F of the Adjudicative Guidelines. I further find that while the Individual has fully resolved the concerns under Guideline F, the Individual has not succeeded in fully resolving the concerns under Guideline E. Therefore, I cannot conclude that granting DOE access authorization to the Individual "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 grant access authorization to the Individual.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Kristin L. Martin
Administrative Judge
Office of Hearings and Appeals