



part-time employment at a prior job (Prior Job One), which “lasted approximately [five] weeks” in 2020, because “it slipped [his] mind.” *Id.* at 152.

The LSO subsequently issued the Individual a Letter of Interrogatory (LOI), which the Individual completed in July 2021. Ex. 17. In the July 2021 LOI, the Individual indicated that the collection accounts were either the result of fraud or had already been paid. *Id.* at 392–96. The Individual was subsequently granted access authorization.

In November 2022, the Individual signed and submitted a second QNSP (2022 QNSP) in connection with seeking an elevated access authorization. Ex. 6. In the 2022 QNSP, the Individual similarly represented that he was not delinquent on any debts. *Id.* at 239. And in the “Employment Activities” section of the 2022 QNSP, the Individual did not list his part-time employment at Prior Job One that he had previously volunteered in 2021. *See id.* at 203–11. On December 10, 2022, the LSO obtained a credit file report for the Individual (December 2022 Credit Report). Ex. 7 at 294–303. The December 2022 Credit Report indicated that the Individual had eleven debts in collection. *Id.* at 295–299.

Further, during an interview with an investigator in January 2023, the Individual’s former direct supervisor (Source One) at a prior job (Prior Job Two) stated that the Individual was “not eligible for rehire because he was not a good match for the job and resigned.” *Id.* at 277. Source One also stated that the Individual “did willfully disregard order[s] or directives.” *Id.* Additionally, one of the Individual’s former coworkers (Source Two) at Prior Job Two stated that the Individual was “not eligible for rehire because the job was not a good fit, there were personality conflicts . . . and [he] was not well liked due to a lack of ability to do his job.” *Id.* at 278–79. Source Two also stated that the Individual “tried to solicit money from employees after he left because he could not pay his bills.” *Id.* at 279.

During an Enhanced Subject Interview (ESI) in March 2023, the Individual acknowledged that the eleven collection accounts were omitted from the 2022 QNSP due to “unintentional oversight,” but stated the majority of accounts had either already been paid or were the result of identity fraud. *Id.* at 265–70. The Individual also stated that after he was laid off from Prior Job Two, he “did borrow money from a coworker” to travel to the state in which his wife was living. *Id.* He further stated that he paid the coworker back in full several months later. *Id.* Additionally, during the ESI, the Individual’s wife stated that the Individual had worked at Prior Job One from July 2020 through 2021. *Id.* at 282.

The LSO subsequently issued the Individual a LOI, to which the Individual provided a first response on June 1, 2023, and a second response on June 7, 2023. Ex. 11; Ex. 12. In both responses, the Individual again reiterated that the majority of collection accounts were the result of fraud and identity theft. *Id.* at 331–33, 338–39. The LSO issued the Individual another LOI, to which the Individual provided a response on July 13, 2023. Ex. 15. In the July 2023 LOI, the Individual provided screenshots of his account on a credit reporting agency’s website, which indicated that several of the collection accounts had been removed previously. *Id.* at 355–61.

On October 11, 2023, the LSO obtained a credit report file for the Individual (October 2023 Credit Report). Ex. 8 at 307. The October 2023 Credit Report indicated that the Individual was responsible for three collection accounts, which consisted of a debt to a hospital totaling \$2,694, and two debts to utility companies, which totaled \$87 and \$78.<sup>3</sup> *Id.* at 308–309.

The LSO then issued the Individual a letter in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information described above raised security concerns under Guideline F (Financial Considerations) and Guideline E (Personal Conduct). Ex. 2.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 1. 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 seventeen exhibits (Ex. 1–17) and the Individual submitted twenty-eight exhibits (Ex. A–BB).<sup>4</sup> The Individual presented the testimony of five witnesses, including himself. *See* Transcript of Hearing, Case No. PSH-24-0065 (hereinafter cited as “Tr.”). The LSO did not call any witnesses. *Id.* at 3.

## 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. 2 at 6–9. “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. “An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.” *Id.* The LSO cited three collection accounts: (1) a debt to a hospital totaling \$2,694, (2) a debt to a utility company totaling \$87, and (3) a debt to a separate utility company totaling \$78. Ex. 2 at 4–5. The LSO also stated that “[d]uring an interview on January 30, 2023, a source disclosed that [the Individual] tried to solicit money from employees” after he left Prior Job Two, and the Individual admitted to borrowing money from a coworker after he was laid off from Prior Job Two. *Id.* at 5. The cited information justifies the LSO’s invocation of Guideline F.

The LSO cited Guideline E (Personal Conduct) as the second basis for its determination that the Individual was ineligible for access authorization. Ex. 2 at 10–12. “Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can

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<sup>3</sup> Although the Individual’s debt to the hospital is not for the same amount in the October 2023 Credit Report as in the other credit reports, the account number is the same as the hospital debt listed on the prior credit reports. *Compare* Ex. 8 at 308 *with* Ex. 7 at 295–96.

<sup>4</sup> The Individual’s Exhibits A through Z are combined in a 92-page PDF workbook. This Decision will cite to these exhibits by reference to the exhibit and page number within the workbook. Exhibits AA and BB were each submitted as separate documents. This Decision will cite to these exhibits by reference to the exhibit and page number within each document.

raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines at ¶ 15. The LSO cited the Individual's "No" response on his 2021 and 2022 QNSPs when asked if he had any delinquencies involving routine accounts, and the Individual's failure to report his financial delinquencies once he was an active clearance holder. Ex. 2 at 6. The LSO further alleged that the Individual failed to disclose his part-time employment at Prior Job One from July 2020 through 2021 and that, although the Individual indicated that he was laid-off from Prior Job Two, a source indicated that he "was not eligible for rehire due to personality conflicts regarding judgment and reliability." *Id.* The LSO also alleged that "[a]nother source reported that [the Individual] was not recommended for a security clearance because he demonstrated an overall lack of judgment, had an inability to present himself in a professional manner, and had a lack of candor." *Id.* The cited information justifies the LSO's invocation of Guideline 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) (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.* § 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

During the March 2023 ESI, the Individual indicated that he "refused to pay" the two outstanding debts to utility companies, which totaled \$87 and \$78, because he was charged for a month of service after he had already moved out of each rental property. Ex. 7 at 270–72. He stated that he received a collection notice for the bill totaling \$78 in May 2022, and one for the bill totaling \$87 in May 2021, but "chose to ignore the bills."<sup>5</sup> *Id.* at 271. He indicated that he intended to resolve

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<sup>5</sup> While the Individual indicated that he received a collection notice for the \$78 debt in May 2022, due to a delinquent utility bill from either September or October 2021, the record reflects that the Individual filed a dispute for this debt

the delinquent utility bills. *Id.* Regarding the delinquent hospital debt, the Individual stated that he had “never been to th[at] hospital,” and the debt was the result of his “identity being stolen.” *Id.* at 265–67. Further, when confronted with the derogatory comments made by Source One and Source Two, the Individual stated that he did disagree with several of the decisions that leadership made at Prior Job Two and perceived that “others may have seen that as [him] not having good conduct.” *Id.* at 264. However, he “believe[d] his character, interaction with others, and work ethic were where they needed to be according to policies and procedures.” *Id.*

In the June 1, 2023, LOI response, the Individual stated that “[a]ll of [the collection accounts] and more were on [his credit] report” when he first obtained his security clearance and “thoroughly discussed at that time.”<sup>6</sup> Ex. 11 at 331. He stated that he was able to have “most of these removed from his credit report, only to find several months later that they were put back on again.” *Id.* He noted that the accounts have been reappearing every three-to-four months, which has been a “maddening cycle.” *Id.* For the two debts to utility companies, totaling \$87 and \$78, he stated that after he “enacted the escape clause in [his] lease” to leave a rental property, his landlord “tried to tell the energy companies these were [his] responsibility, even though they legally were not.”<sup>7</sup> *Id.* at 332. The Individual indicated that the landlord previously agreed to pay the utility bills, but “[n]ow he is non-responsive.” *Id.*

In the July 2023, LOI response, the Individual asserted that the collection accounts totaling \$87 and \$78 “were both actually removed previously, as the screen shots show.” Ex. 15 at 355. However, the screenshots that the Individual submitted of his account on a credit reporting agency’s website demonstrate that only the \$78 account had been removed previously. *See id.* at 355–61. He again asserted that the medical debt totaling \$2,505 was “not [his] charge,” and that he “contacted [the hospital] to attempt to resolve, but they have never responded.” *Id.* at 355.

At the hearing, the Individual’s wife testified that she and the Individual were victims of identity theft due to the credit reporting agency data breaches that occurred in 2015 and 2019.<sup>8</sup> Tr. at 18. She also testified that she and Individual allowed what they thought was a “fashion institute design student” to live with them, but they later discovered he was a “fraudster and con man” who stole their identification cards. *Id.* at 20–21. She stated that they did not think much of this until the extent of the Individual’s fraudulent accounts were revealed during his first security clearance process. *Id.* at 21. She also stated that the Individual and herself have “been dealing with other

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as of the July 2021 LOI. *See* Ex. 17 at 397. It therefore appears likely the Individual confused the collection notice dates for the two utility accounts, and the collection notice he received in May 2022 was likely for the \$87 debt.

<sup>6</sup> The two delinquent utility bills, totaling \$78 and \$87, were not included on the March 2021 Credit Report, which was the subject of the Individual’s initial security clearance review. *See* Ex. 5 at 180–84.

<sup>7</sup> Although the Individual indicated that the two delinquent utility bills stemmed from the same rental property and landlord, in the March 2023 ESI, the Individual had indicated that the utility bills were each from separate properties and landlords. *Compare* Ex. 11 at 332 *with* Ex. 7 at 270–71.

<sup>8</sup> The record includes an email dated February 2, 2022, from the “Equifax Breach Settlement Administrator” to the Individual’s wife, which indicates that the Individual’s wife “filed a claim in the Equifax Data Breach Settlement.” Ex. Z at 88.

greater matters” and “have not had the time to check credit reports.” *Id.* She testified that in 2022, she had hired a credit repair company to “figure out what [the] ten to [twelve] items were on [the Individual’s] credit report,” and now, the issues “have all been resolved.” *Id.*

The Individual’s wife further explained that the hospital debt cited in the SSC, which the Individual initially disputed as fraud, did in fact belong to the Individual. *Id.* at 19. She noted that they were initially “dubious” of the debt because the hospital had “issued bills that were not [hers]” in the past. *Id.* However, a week before the hearing, the Individual’s wife stated that she decided to review emails from the 2017 to 2018 time period to determine whether the hospital bill could belong to the Individual, and she found an email which reminded them of the Individual’s injury. *Id.* at 19, 43–44, 160. She further stated that much of the confusion around this hospital debt stemmed from the fact that the Individual did not actually go to the hospital that was listed on the bill, but he instead “went to an adjunct facility that was [twenty] miles away from [the hospital].” *Id.* at 44. She testified that they “didn’t connect the dots nor even remember the injury at the time.” *Id.*

The Individual’s former work colleague at Prior Job Two (who was not Source One or Source Two) testified that she was one of employees responsible for hiring the Individual, and she believes that the Individual is an excellent candidate for a security clearance. *Id.* at 57–58. She stated that she is also no longer employed with Prior Job Two because she “had a different opinion on how things should be run” with the leadership team, which included Source One and Source Two. *Id.* at 56–60. She noted that Sources One and Two, who were hired just before she started, were “newcomers to the system” and attempted to bring about “change” in the operation of the job. *Id.* at 58–59, 64. The former work colleague noted that the Individual similarly disagreed with how Sources One and Two wanted to operate certain aspects of the job. *Id.* at 64–67. She indicated that she was “quite sure” that Source Two’s negative perception of the Individual was shaped by their differences in opinion. *Id.* at 79–80.

The former work colleague disagreed with Source Two’s statement that the Individual had a “universal reputation” of not being “well liked due to lack of ability to do his job,” and stated she “had heard nothing of that.” *Id.* at 74. The former work colleague stated that the Individual never tried to solicit money from her after he left, and she “never heard” of him asking other employees for money. *Id.* at 76. She stated that she believed the Individual was successful at his job during his employment, and she would hire him again. *Id.* at 63–64.

The Individual’s current second-line supervisor, a clearance holder and employee for thirty-seven years who has worked with the Individual for “almost three years,” testified that the Individual has been an excellent employee, and he would be “thrilled” to have him back. *Id.* at 86–88, 91. The second-line supervisor testified that he “routinely interact[s]” with the Individual “at least once a week.” *Id.* at 91. He also asserted that he believes the Individual to be truthful, dependable, and reliable. *Id.* at 88, 93. The Individual’s former grade-school teacher and friend, who has known the Individual for “about [fifty] years,” testified that he has known the Individual to be reliable, dependable, trustworthy, and of good judgment. *Id.* at 97–98.

The record also includes letters from a current work colleague, two current supervisors, and the Individual's former direct supervisor at a prior employer (Prior Job Three). Ex. G; Ex. H; Ex. J; Ex. L. Therein, the work colleague related that he has worked with the Individual for "almost three years" on several projects, and he views the Individual as a "trusted friend" and "trustworthy person." Ex. G at 12. The first supervisor (Supervisor One) stated that she has "complete confidence in [the Individual's] exceptional skills, professionalism, and valuable contributions." Ex. H at 13. Supervisor One stated that the Individual's absence has "impacted [their work,]" and she would hope for "an expedited return of this valuable individual and team member." *Id.* The second supervisor (Supervisor Two) related that the Individual has a "great attitude" and has a "passion and love" for his current role. Ex. J at 15. Supervisor Two stated that he has "always put a premium on initiative and willingness to learn among [his] team members[,] and [the Individual] never failed to deliver on both fronts." *Id.* The Individual's former supervisor related that it "would be impossible to list all [of his] accomplishments," and the Individual was a "visionary who tirelessly worked" to complete his tasks. Ex. L at 17. She further noted that she "would be proud to work with [the Individual] in the future." *Id.*

At the hearing, the Individual testified that he paid the outstanding debts in the amounts of \$78 and \$87.<sup>9</sup> *Id.* at 106. He testified that after he moved out of his rental house, he was told by his landlord to move the utility accounts back into the landlord's name. *Id.* at 170. He testified that the utility companies "said [the accounts] would be switched over to [the landlord's] name on the day that [he] called them," which is why he considered the utility bills to be "the landlord's responsibility for the month after [he] moved out." *Id.* The Individual stated that the day he called the utility companies to switch the account names "was the last [he] really thought about it." *Id.* at 171.

The Individual further testified that once it was determined that the hospital debt did in fact belong to him, he immediately made payment arrangements with the hospital.<sup>10</sup> *Id.* at 106, 162. He stated that the injury occurred in 2018 and this was forgotten due to the "many things" that had happened since then, including his "cervical fusion surgery," the COVID-19 pandemic, moving residences, and moving jobs. *Id.* at 107. The Individual also stated that he directed the hospital to send the bill directly to a third party, the venue he was injured at, and the third party "agreed to pay and then ended up [not] pay[ing]."<sup>11</sup> *Id.* He further testified that after he discovered this debt on his credit

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<sup>9</sup> The Individual submitted documentary evidence corroborating this testimony, which indicates that he paid the \$78 debt in full on February 7, 2024, and the \$87 debt on February 6, 2024. Ex. N at 27; Ex. O at 28–29.

<sup>10</sup> This testimony is supported by the Individual's submission of a statement from a representative of the hospital's financial services department, which indicates that the Individual is "on a[n] interest free payment plan with the terms: \$50.00 a month for 48 months with a payment not due until May 18, 2024." Ex. AA at 1. The Individual also submitted evidence indicating that he made two separate payments totaling \$150 towards his hospital debt in April 2024. Ex. P at 30; Ex. BB at 1–2.

<sup>11</sup> The Individual submitted an email from the third-party vendor, which indicated that the vendor agreed to "cover [the Individual's] cost of seeing a physician to determine if there [wa]s any further medical follow-up that is needed as a result of the incident." Ex. Y at 70–71. However, the vendor also indicated that it would only pay \$150 towards the medical bills and asked the Individual to provide it with the invoice from the physician. *Id.* Although the Individual

report after the initial security clearance review process, he talked with the hospital “several times about this issue[,] [a]nd ultimately, it was taken off [his] credit report.”<sup>12</sup>

The Individual testified that his most recent credit report showed zero delinquencies.<sup>13</sup> *Id.* at 108–09. He stated that many of the issues with his credit file were brought to his attention during the initial security clearance review process, and he was “grateful” these issues were brought to his attention “so that [he] could address them.” *Id.* at 109. The Individual confirmed that in 2022, his wife employed a credit repair agency to identify fraudulent accounts. *Id.* He further testified that he did not believe he had any delinquent debt as of the 2022 QNSP because, by that time, he “had corrected a large number of those,” which were either paid in full or removed from the credit report. *Id.* at 157. The Individual further explained that because he had provided DOE “with all of the information that [he] could get [his] hands on pertaining to what had been removed and when it had been removed” during his first security clearance process in 2021, he believed “that those items were no longer of concern” during the review process for an elevated clearance. *Id.* at 181–82. The Individual stated that the security clearance review process “wasn’t really explained to [him],” and he “filled out those forms thinking that there were certain things that whoever reviewed this would understand because they already had it in the records, but nobody directed [him] one way or the other.” *Id.* at 146.

The Individual testified that he was not fired from Prior Job Two, but when the COVID-19 pandemic first began, it was the employer’s decision to “let go the people who had most recently been hired.” *Id.* at 115–16. He further explained that while employed at Prior Job Two, he expressed a concern regarding a problem that he believed “caused offense to people” to Source One, who disagreed with his assessment of that particular problem. *Id.* at 116. He testified that he expressed additional concerns to leadership regarding possible violations of certain regulations, but his concerns were again dismissed. *Id.* at 122–23. The Individual also confirmed that although he borrowed \$1,000 from a friend after he was laid-off from Prior Job Two, he paid his friend back in full.<sup>14</sup> *Id.* at 112.

The Individual testified that his failure to list Prior Job One on his QNSPs was a “complete oversight,” but he did not list this part-time job on his professional resume, which is what he referenced when completing the QNSPs. *Id.* at 145. Although the Individual acknowledged that he volunteered this part-time employment information during an ESI in 2021, he indicated that he

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sent a reply arguing that \$150 would not be enough, there is no further response from the third party in the record. *Id.* at 69.

<sup>12</sup> Although the Individual testified that the hospital debt was removed from his credit report at some point, he did not provide supporting documentation to corroborate this assertion. The Individual’s wife testified that she attempted to find documentation supporting the removal of the hospital debt in the credit repair company’s “portal,” but everything was removed because they were no longer clients. *Tr.* at 159.

<sup>13</sup> The Individual’s testimony is corroborated by his submission of a March 31, 2024, Credit Report, which indicates that there are zero delinquencies on his account. *Ex. Q* at 32.

<sup>14</sup> The Individual testified that the person he borrowed the money from was unable to testify because of his health. *Tr.* at 112–13.

had to start the 2022 QNSP form “from scratch,” and because Prior Job One was still not listed on his professional resume, it again “slip[ped] [his] mind.” *Id.* at 174–76. The Individual noted that his part-time employment at Prior Job One, which only lasted “a few short weeks,” was not related to the same field as his career. *Id.* at 145, 178.

## V. ANALYSIS

The LSO raised security concerns under Guidelines F and E. The concerns were properly raised by the LSO based on the Individual’s outstanding financial obligations, omissions from his QNSPs, and allegations regarding the Individual’s conduct at a prior job from two sources.

### A. Guideline F

Guideline F lists seven conditions that could mitigate a concern raised by financial irregularities:

- (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.

Adjudicative Guidelines at ¶ 20.

With respect to the Individual's hospital debt, the Individual demonstrated that he initiated a payment plan with the hospital, which consists of forty-eight payments of \$50, and paid \$150 towards the debt. Further, the Individual provided evidence indicating that he has satisfied the two delinquent utility bills, which totaled just \$87 and \$78. Therefore, because the Individual has initiated and is adhering to a good-faith effort to repay his hospital debt and has resolved the remaining two debts, I find that the mitigating factor (d) is applicable in this case.

Additionally, although the Individual acknowledged that he did borrow money from a former coworker after he was laid off from Prior Job Two, the Individual stated that he paid the coworker back in full.<sup>15</sup> I have no evidence before me indicating that the Individual has borrowed money from any other friends or coworkers, therefore I conclude that this single occurrence is so infrequent that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment. Accordingly, I conclude that this concern is mitigated pursuant to factor (a).

Given the applicability of the mitigating factors described above, I find that the Individual has mitigated the Guideline F security concerns.

## **B. Guideline E**

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline E 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,

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<sup>15</sup> To the extent that this security concern is also based on the Individual soliciting money from former coworkers, I find the factual basis for this concern to be lacking. The concern is based on an account from a single, non-testifying source, who did not indicate that the Individual attempted to solicit money from her. I find this allegation to be outweighed by the testimony of the Individual and his former work colleague, who denied knowledge of the Individual soliciting money.

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.

With the respect to the concern regarding Source One and Source Two's comments about the Individual's job performance and attitude at Prior Job Two, I find the Individual's testimony convincing in describing how his disagreements with Sources One and Two may have skewed their perception of him. The Individual's testimony was also corroborated by the work colleague from Prior Job Two, who explained that Sources One and Two were "newcomers" to their field of work and attempted to operate the workplace in a different manner, which caused disagreements among the team. Further, the Individual presented the testimony of his current second-line supervisor and submitted letters from a current work colleague, two current supervisors, and his former direct supervisor at Prior Job Three, all of whom vouched for the Individual's character and job performance. Therefore, especially considering that Sources One and Two did not testify, or provide any specifics in their statements to investigators, I conclude that the Individual has resolved the concerns arising from this allegation pursuant to mitigating factor (f) because the derogatory information was unsubstantiated and from sources of questionable reliability.

However, I cannot conclude that the Individual mitigated the concerns related to his 2021 QNSP omissions, 2022 QNSP omissions, and failure to disclose any delinquent accounts when he was an active clearance holder. Regarding factor (a), the Individual did not make any efforts to correct his debt-related omissions or concealments before being confronted with the facts. Although the Individual did initially volunteer his employment with Prior Job One before being confronted with the fact, I am not convinced that the Individual was entirely truthful in his initial statement. The Individual has repeatedly stated that he only worked at Prior Job One for a few weeks starting in November 2020, however, his wife also told an investigator that he worked at Prior Job One from July 2020 "through 2021." I do not have any evidence before me to corroborate either statement, therefore, given the conflicting accounts of the Individual's dates of employment, I cannot conclude that he properly corrected the omission. And after failing to report his employment at Prior Job One again in his 2022 QNSP, the Individual did not make any attempt to correct this omission before being confronted with the fact. Accordingly, I cannot conclude that he mitigated these stated concerns pursuant to mitigating factor (a).

I also cannot conclude that the Individual mitigated these stated concerns pursuant to mitigating factor (c). As an initial matter, I cannot conclude that enough time has passed because the omissions took place as recently as late 2022. Further, I cannot conclude that these concerns occurred under unique circumstances. While the Individual testified that he was unaware of the issues with his credit report until after he completed his 2021 QNSP, and he was “grateful” that DOE brought these issues to his attention, it was his responsibility to accurately submit the QNSP. His lack of awareness regarding the information on his credit report is not an excuse, especially considering that the Individual and his wife admitted to being victims of the credit reporting agency data breaches in 2015 and 2019, as well as having their identification cards stolen by a “con man” at some point before 2021. Therefore, the Individual should have been on notice regarding any potential issues with identity theft. And, as the Individual acknowledged, the hospital debt was not fraudulent, but rather, it was a debt that he had forgotten that he was responsible for at the time he submitted the 2021 QNSP. Similarly, the Individual’s testimony that he believed the fraudulent collection accounts had been removed as of the date he submitted the 2022 QNSP does not absolve him of his obligation to accurately answer the QSNP, especially considering that he was already well-aware of the issues surrounding his credit report at the time. The fact that the Individual failed to check his credit report before submitting his QNSP responses is not a unique circumstance that makes the omissions unlikely to recur.

Furthermore, there remained several collection accounts that the Individual either did not dispute as identity fraud or knew had not been removed from his credit report as of the date he completed his 2022 QNSP. For example, in the March 2023 ESI, the Individual stated that he received a collection notice for a delinquent utility bill in May 2022, but simply chose to ignore the bill because he believed his landlord should have been the responsible party.<sup>16</sup> And while the Individual may have initially believed that the hospital debt was fraudulent, this debt was never actually removed from his credit report.<sup>17</sup> Therefore, he had no reason to believe that the hospital debt was not on his credit report at the time he submitted his 2022 QNSP. Similarly, once he was an active clearance holder, the Individual was under an obligation to report any delinquent accounts over 120 days past due not later than three working days after each occurrence. *See* DOE O 472.2A, Attachment 5. However, the Individual failed to report the delinquent utility bill that he received notice of in May 2022. Thus, I cannot conclude that the Individual’s debt-related omissions or concealments occurred under unique circumstances.

Additionally, I cannot conclude that the Individual’s omissions related to his employment at Prior Job One occurred under unique circumstances. Regarding the first omission in the 2021 QNSP, although the Individual indicated that the job was not included on his professional resume, it was his responsibility to accurately report his employment information at the time he submitted the

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<sup>16</sup> As noted previously, the Individual provided conflicting accounts regarding the origination of the \$78 and \$87 delinquent utility bills. In the March 2023, ESI, the Individual indicated the delinquent utility bills were each from separate properties and landlords. However, in later LOI responses and at the hearing, the Individual only referred to a single landlord and property.

<sup>17</sup> Although the Individual testified that this debt was removed from his credit report at some point, he has not provided documentation to corroborate this assertion. Considering that the Individual provided documentation to demonstrate the removal of several other collection accounts, I do not find his testimony regarding the removal of the hospital debt to be persuasive.

2021 QNSP. As noted above, although the Individual's dates of employment at Prior Job One are unclear, it either ended in December 2020 or at some point in 2021. Therefore, I cannot conclude that his failure to report this job on a QNSP submitted so close in temporal proximity to the last date of employment occurred under such a unique circumstance. And considering that the Individual was already on notice that Prior Job One should have been reported initially, I am not compelled by the Individual's testimony that it again "slipped" his mind when completing the 2022 QNSP because the job was still not included on his professional resume. Thus, I cannot conclude that the Individual's employment-related omissions occurred under unique circumstances.

I also cannot conclude that these omissions are minor because the Individual is under an obligation to provide accurate answers on the QNSP and report any delinquent debt as an active clearance holder. Further, the fact that the Individual made the same omissions on the 2022 QNSP as the 2021 QNSP demonstrates a pattern, which weighs against a finding that such omissions are minor. For the same reason, I cannot conclude that such behavior is infrequent. Accordingly, I cannot conclude that the Individual has mitigated these concerns pursuant to factor (c).

Regarding factor (b), there is nothing in the record to indicate that the Individual failed to report or omitted the information due to advice from counsel or a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Therefore, mitigating factor (b) is not applicable.

Regarding factor (d), there is nothing in the record to indicate that the Individual has sought counseling specifically to address his omissions on the 2022 QNSP or his failure to report his delinquent debts. Therefore, mitigating factor (d) is not applicable.

The LSO did not allege any association with persons involved in criminal activity or any vulnerability due to the omissions and failure to report, and accordingly, mitigating factors (e) and (g) are not applicable.

Regarding factor (f), although the Individual argued that many of the accounts that appeared on his credit report were fraudulent, he did not dispute that the collection accounts did in fact appear on his credit reports. Further, as noted above, at the very least, the Individual acknowledged his awareness of the two delinquent utility debts as of the date he completed the 2022 QNSP. Therefore, mitigating factor (f) is not applicable.

Accordingly, for the reasons cited above, I find that the Individual has not mitigated the Guideline E security concerns raised by the LSO.

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines E and F 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 brought forth sufficient evidence to resolve the security concerns under Guideline F, but failed to mitigate the security concerns under Guideline E. Accordingly, I have

determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Janet R.H. Fishman  
Administrative Judge  
Office of Hearings and Appeals