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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: April 16, 2024)	Case No.: PSH-24-0105
)	
_____)	

Issued: October 9, 2024

Administrative Judge Decision

Brenda B. Balzon, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."¹ 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 not be granted.

I. BACKGROUND

The Individual is employed with a DOE Contractor in a position that requires him to hold a security clearance. In May 2023, the Individual completed a Questionnaire for National Security Positions (QNSP). Exhibit (Ex.) 7 at 177.² In the QNSP, he disclosed that he had failed to file (1) his federal personal income tax returns for tax years 2019, 2021, and 2022 and (2) his state personal income tax returns for State 1 for tax years 2015 through 2022. *Id.* at 94–100. A credit report also revealed that he had \$918 in outstanding delinquent medical debt that had been referred to collections. Ex. 6 at 47.

In June 2023, the Individual underwent an Enhanced Subject Interview (ESI) with an investigator with the Office of Personnel Management (OPM). Ex. 8 at 182. When asked about his failure to file his federal and state tax returns, the Individual indicated that he "did not file federal or state income tax[] [returns] because [he] could not afford [] an account[ant] to prepare the taxes" but

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

² References to the LSO exhibits are to the exhibit number and the Bates number located in the top, right corner of each exhibit page.

that he was “[c]urrently . . . working with an account[ant] to file” those returns. *Id.* at 186. When confronted about the outstanding delinquent medical debt, the Individual told the investigator that he had no knowledge of the debt and that he intended to contact the creditor to set up a payment plan. *Id.*

Subsequently, the Local Security Office (LSO) requested that the Individual respond to a Letter of Interrogatory (LOI); his response confirmed that he had failed to file his taxes as previously reported. Ex. 5 at 21–28. Furthermore, his response revealed that because he had not filed his taxes, he was generally unaware if he owed certain state and federal taxes. *See, e.g., id.* at 22 (responding that he does “not at the moment” owe federal taxes for 2021 “due to [his] 2021 taxes being unfiled”). He also, for the first time in the background investigation, disclosed that he failed to file his state personal income tax returns for State 2 but was generally unaware of which years he had failed to file such taxes. *Id.* at 29. When asked why he had not paid his delinquent medical debt, the Individual indicated that he had “financial troubles . . . and could[] [not] pay.” *Id.* at 30. He had not at the time contacted the creditor nor initiated repayment. *Id.*

Due to the above unresolved security concerns, the LSO informed the Individual, in a Notification Letter dated January 16, 2024, that it possessed reliable information that created substantial doubt regarding the Individual’s eligibility to hold a security clearance. Ex. 1 at 6–7. In an attachment to the letter entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines. *Id.* at 5.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. The LSO submitted eight numbered exhibits (Exs. 1–8) into the record. The Individual submitted eleven lettered exhibits (Exs. A through K).³ The Individual presented the testimony of one witness and testified on his own behalf. *See* Transcript of Hearing, OHA Case No. PSH-24-0105 (hereinafter cited as “Tr.”).

II. NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as the basis for its security concerns regarding the Individual. Ex. 1. “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 . . . information.” Adjudicative Guidelines at ¶ 18. Among the conditions set forth in this guideline that could raise a disqualifying security concern are the failure to satisfy debts and the failure to file federal or state income tax returns, and the failure to pay federal or state income taxes as required. *Id.* at ¶ 19(a)–(c), (f). The SSC cited the Individual’s failure to file federal tax returns for 2019, 2021, and 2022; his failure to file state tax returns for State 1 for 2015 through 2022; his failure to file state tax returns in State 2 for unknown tax years; and the Individual’s delinquent debt of \$918. Ex. 1.

³ The Individual’s Exhibits A through H were submitted as a single PDF. The Individual also submitted three unmarked exhibits as separate PDFs which this Decision refers to as Exhibits I, J, and K. For the Individual’s Exhibits A through H, this Decision cites to the PDF page number.

Because (1) the SSC cited to the Individual's response to the LOI, (2) the Individual, in his response to the LOI, admitted to failing to pay his taxes for the unfiled tax years,⁴ and (3) the failure to pay his taxes is thus intertwined with the concerns cited in the SSC, I also consider as part of the Guideline F security concerns that he failed to pay federal and state personal income taxes as required. Ex. 1 (citing Ex. 5). The cited information justifies the LSO's invocation of Guideline F.

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 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 their eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

a. Testimony of the Individual's Friend

The Individual's friend (Friend) testified that she had known the Individual for nineteen or twenty years and has seen him approximately daily for the past two years. Tr. at 12. She was generally aware of the Individual's financial issues regarding his taxes and stated the Individual first made her aware of these issues around the time he started his current job and was applying for a security clearance. *Id.* at 13–14. She testified that the Individual informed her of his financial stress, his embarrassment over not handling his finances, and the importance of his current job in providing him with "the financial freedom" to address his financial issues. *Id.* at 15.

The Friend testified that the Individual, despite working night shifts, would stay up all day to contact the tax authorities for State 1 and State 2, as well as the Internal Revenue Service (IRS),

⁴ The Individual appeared to be under a mistaken belief that he does not owe taxes until he files a tax return. *See, e.g.*, Ex. 5 at 21 (responding "Not at the moment, due to my 2021 taxes being unfiled" to the question "Do you owe money for federal taxes for 2021?").

to gather the necessary paperwork and to figure out how to remedy his tax issues. *Id.* at 15. She also stated that the Individual was working with a tax advisor to prepare his tax documents. *Id.* She testified that it was her belief that the Individual's tax issues had been resolved as of the date of the hearing. *Id.* at 16. The Friend testified that she finds the Individual to be reliable, and he has demonstrated growth and maturity through his efforts to resolve his financial issues. *Id.* at 17–18.

b. Failure to Timely File State 1 Tax Returns for Tax Years 2015–2022

The Individual admitted during the hearing to having failed to timely file his State 1 tax returns for tax years 2015 through 2018 even though he filed his federal tax returns for those same years. *Id.* at 32–33; Ex. B at 17. When asked why he filed his federal tax returns but not his State 1 tax returns, the Individual testified that his inaction resulted from a combination of personal and financial circumstances occurring between 2013 and 2015, in particular: (1) separating from his son's mother, requiring him to either split or abandon formerly shared assets with her; (2) custody proceedings; (3) traffic tickets with related court proceedings; (4) suffering a stroke with subsequent rehabilitation and medical debt; (5) lacking time given his work schedule; (6) his inability to find a tax preparer to assist him with filing his state taxes; (7) not “knowing what to do” in order to file his state tax returns; and (8) forgetting to send them in. Tr. at 24–27, 33–35. Documentary evidence demonstrates that the Individual also failed to file timely his State 1 tax returns for 2019, 2020, 2021, and 2022. Ex. B at 17–18; 27–31.

For tax year 2015 and tax year 2018, the state tax authority for State 1 issued “setup returns” for the Individual; he explained during the hearing that the State 1 tax authority completed the Individual's state tax returns and notified him of taxes owed, including penalties and fees. Ex. B at 17; Tr. at 35–37. For the 2015 tax year, the “setup return” occurred in June 2020. Ex. B at 17. Payments for the 2015 taxes due began in April 2022 and ended in May 2022 when the balance was satisfied. *Id.*

For the 2018 tax year, the “setup return” occurred in October 2021. *Id.* The taxes due were satisfied by two payments, one in May 2022 and another in May 2023. *Id.* The Individual testified that, for either his 2015 or 2018 tax liability, State 1 initiated a wage garnishment to collect the amount owed; however, the Individual could not specifically recall whether it was for the 2015 or 2018 balance. Tr. at 37–38.⁵

For the 2020 tax year, the Individual submitted a late tax return to the State 1 tax authority in July 2023. *Id.* at 39; Ex. B at 18. The Individual also set up a payment plan of \$100 per week starting in September 2023. Tr. at 38–39, 52; Ex. B at 18. The Individual satisfied the outstanding 2020 tax balance in February 2024. Ex. B at 18.

For the 2022 tax year, the Individual submitted a late tax return to the State 1 tax authority in April 2024. Tr. at 40; Ex. B at 18. The Individual testified to filing the 2022 state tax return with his

⁵ The Individual included in the record a June 2022 Satisfaction of Judgment for a tax warrant issued in a local State 1 court. Ex. D at 61. The Individual testified that he could not recall for what tax year the tax warrant was issued. Tr. at 78–79. That the State 1 court issued the June 2022 Satisfaction of Judgment after the Individual's full payment of his 2015 tax liability in May 2022 suggests that the wage garnishment occurred for the 2015 tax liability. Ex. A at 17; Ex. D at 61.

timely 2023 state tax return. Tr. at 40–41. The Individual paid the outstanding 2022 balance immediately using his 2023 refund. *Id.*; Ex. B at 18.

c. Late Filing of State 1 Tax Returns for Tax Years 2016, 2017, 2019, and 2021 and Outstanding Tax Liability for Tax Years 2016, 2017, and 2019

The Individual submitted, as documentary evidence, his State 1 tax returns for 2016, 2017, and 2021. Ex. B at 21–25, 30–31. During the hearing, the Individual testified that he went to a taxpayer assistance office with State 1, received assistance with filling out the tax returns for 2016, 2017, and 2021, and had the office stamp and fax the tax returns to the State 1 Department of Revenue as proof of the fact that they had been sent off for filing. Tr. at 42, 46–48, 56–57. Each of those state tax returns was stamped on August 19, 2024. Ex. B. at 21, 24, 30. Each was also signed on August 19, 2024. *Id.* at 22, 25, 31. The Individual at first testified that he was told that he did not “owe” anything for these three tax years. Tr. at 42. However, he later clarified and acknowledged that his State 1 tax returns reflected tax liability for 2016 and 2017, respectively \$50 and \$43. *Id.* at 45–46, 54–55; Ex. B at 22, 25. He also indicated that he had a tax refund from 2021, amounting to \$147. Tr. at 57; Ex. B at 31. He was unaware of the penalties and fines that would be added on based on his late filing. Tr. at 57.

The Individual also submitted, as documentary evidence, his State 1 tax return for 2019, signed on July 28, 2023. Ex. B at 27–28. The Individual testified that a tax preparer had completed the form for him. Tr. at 48–49; *see also* Ex. E at 63. He further testified that he did not file it at the time of signing, however. Tr. at 50. The Individual explained that he took the 2019 State 1 tax return to the aforementioned taxpayer assistance office that helped him prepare the 2016, 2017, and 2021 State 1 tax returns; the 2019 tax return was also filed sometime in August 2024 but approximately a week before the 2016, 2017, and 2021 returns. *Id.* During the hearing, the Individual acknowledged that his 2019 State 1 tax return reflected that he owed \$2521 before penalties and fees. *Id.* at 54; Ex. B at 28. On September 5, 2024, the Individual received a State 1 tax bill for tax year 2019, amounting to \$2725.27 when including penalties and fees. Ex. K at 1–2.

When asked to explain why he delayed in filing his 2016, 2017, 2019, and 2021 State 1 tax returns, the Individual testified that it had been difficult gathering the paperwork, such as W-2s, and contacting the necessary people. Tr. at 58. He further testified that the taxpayer assistance office advised him to delay filing these State 1 tax returns as doing so might “disrupt [his] payment arrangement” for his 2020 tax liability. *Id.* at 51–52. When asked why he had not paid his State 1 tax liability for 2016, 2017, and 2019, the Individual explained that he wanted to get all his returns filed and to get an amount of what he “officially owe[d]” in taxes to State 1. *Id.* at 55–56. In anticipation of the liability, the Individual testified he has saved approximately \$1500 to \$1700. *Id.* at 56.

d. Failure to Timely File Federal Tax Returns for Tax Years 2019, 2021, and 2022 and Possible Outstanding Federal Tax Liability for Tax Year 2019

The Individual testified that he failed to timely file his federal tax return in 2019 because he was arrested and jailed for a possession charge, which resulted in him losing his job and further financial hardship. *Id.* at 59. His 2019 federal tax return was signed on August 15, 2024, and bears

a stamp evincing proof of delivery to the IRS on the same day. Ex. J at 1–2. The Individual could not, at the time of the hearing, recall if he had any tax liability for 2019; however, the 2019 federal tax return reflects that he owes \$173. *Id.* at 2; Tr. at 65. The record lacks any indication whether he has paid this tax liability.

According to the tax transcript submitted, his 2021 federal tax return was filed approximately only one month late in May 2022. Tr. at 61–62; Ex. A at 8. When asked why he had self-reported during his 2023 background investigation that he had not yet filed his 2021 federal tax return, the Individual indicated that he had been confused. Tr. at 62–63.

Regarding his 2022 federal tax return, the Individual filed on April 13, 2024. *Id.* at 66–67; Ex. A at 11. He provided no specific reason for his failure to timely file his 2022 federal tax return. Tr. at 60. The Individual testified that he had received a refund for this year. Tr. at 67; Ex. A at 11 (corroborating with a tax transcript).

e. Failure to Timely File State 2 Tax Returns for Tax Years 2015 and 2017 and Outstanding State 2 Tax Liability for Tax Years 2015, 2016, and 2017

The Individual testified that he contacted the tax authority for State 2 to determine his outstanding tax filing obligations and possible tax liability. Tr. at 67–68. He indicated that he had learned that he needed to file State 2 tax returns for 2015 and 2017. *Id.* at 74. He also learned of outstanding tax debt for tax year 2016. Ex. C at 45–47.

Regarding tax years 2015 and 2017, the Individual indicated that he late filed his State 2 tax returns in August 2024. Tr. at 70; Ex. C at 39, 55. The 2015 State 2 tax return reflects outstanding tax liability of \$417. Tr. at 71; Ex. C at 39. The 2017 State 2 tax return reflects outstanding tax liability of \$56. Ex. C at 55; Tr. at 74.

Regarding tax year 2016, the Individual filed his State 2 tax return in April 2017 but had failed to initially pay an outstanding tax liability of \$26. Tr. at 69; Ex. C at 46. He testified that this liability was satisfied when the State 1 tax authority deducted the amount owed from the tax refund that he received after filing his 2022 and 2023 State 1 tax returns and “sent the money over to [State 2 tax authority] to pay . . . off” his State 2 tax balance. Tr. at 70. When asked why he did not initially pay the 2016 State 2 tax liability, the Individual simply cited the “things [personal and financial issues] going on back then.” *Id.*

When asked why he had not yet paid his outstanding State 2 taxes, the Individual indicated that he was waiting to receive the official amount owed to the State 2 tax authority, based on the advice of his tax preparer; however, the Individual could not recall if this advice specifically pertained to all his outstanding taxes or if it applied only to specific tax years in certain jurisdictions. Tr. at 71–73; *see also id.* at 55–56 (similarly testifying that he was awaiting an official amount due in State 1 before paying his outstanding tax liability). The Individual also testified that he was saving money to eventually pay the taxes after receiving a summary of what he owed to State 2 and a payment plan. Tr. at 76. He further testified that he also did not know to whom to send his back taxes, having attempted to “get in contact with” the State 2 tax authority. *Id.* at 75. However, as stated before, the 2015 and 2017 State 2 tax returns reflect outstanding tax liability for \$417 and

\$56, respectively. Ex. C at 39, 55. Furthermore, the Individual, during the hearing, was directed to a section of his 2017 State 2 tax return, which included a mailing address for “Balance[s] Due.” *Id.* at 55; Tr. at 75–76. When asked if he had considered sending payment to that mailing address, the Individual testified that he had “looked right past it, panicking, trying to get everything done.” Tr. at 75–76. He indicated that his future intent was to start paying at least some of his outstanding balance owed to State 2 now that he had the mailing address. *Id.* at 77.

f. Outstanding Delinquent Medical Debt

The Individual testified that he cannot recall how he accrued the delinquent medical debt discovered in his credit report. *Id.* at 83. He also could not recall why he did not pay the medical debt before. *Id.* The credit report states that the debt was assigned to the successor creditor from the original creditor in November 2019. Ex. 6 at 47. Furthermore, the original balance was \$918. *Id.*

The Individual testified, and the documentary evidence supports, that he had agreed with the creditor to pay \$40/month starting in February 2024. Tr. at 81; Ex. F at 65. After the August 2024 payment, the outstanding balance on the debt amounted to \$638.00 Tr. at 81; Ex. F at 65. His payment history supported his testimony that he has made all his monthly payments on time since February 2024, and he asserted that he will continue making his \$40 monthly payments until he pays the debt in full. Tr. at 81–82; Ex. F at 65. In addition, the Individual testified that he plans to assess whether he can also make extra payments, in addition to his \$40 negotiated payment, but he first wants to ensure that he is saving enough money for his eventual outstanding tax obligations. Tr. at 82–83.

g. Individual’s Current Financial Situation and Future Intentions Regarding his Tax Obligations

The Individual testified that he did not anticipate any trouble fulfilling his future financial obligations and does not believe that there are any other outstanding tax issues. *Id.* at 83. While the Individual acknowledged that he understood how his finances brought into question his judgment, reliability, and trustworthiness, he testified that he would not want “to be a jeopardy to the job” and is “not easily coerced or easily provoked or anything.” *Id.* at 85–86. He further testified that the background investigation motivated him to budget and to get his financial situation in order. *Id.* at 96–97.

He affirmed that he understood the seriousness of not filing his tax returns and not paying his taxes and that he anticipates filing his returns and paying his taxes in the future. *Id.* at 97. In particular, the Individual indicated that he would continue using the same tax preparer he used to prepare some of his late tax returns. *Id.* at 100–01; *see also* Ex. E at 63 (including business card of tax preparer with an invoice dated June 2023 indicating that the tax preparer had assisted with preparing the 2019 and 2020 returns). When asked if he considered financial counseling or financial literacy courses, the Individual testified that he had done some research into programs but had not yet committed to a course. Tr. at 101–02.

The Individual also submitted his personal budget.⁶ Ex. I at 3–4. The Individual testified that he earns approximately \$1300 or more per month after paying all taxes, bills, and expenses. Tr. at 90–91; Ex. I at 3. This budget, however, does not include the back taxes that he will eventually need to pay to State 1, State 2, and possibly the IRS. Tr. at 90.

The Individual testified that he took out a \$3000 personal loan less than a year ago, which has a monthly payment schedule of \$201 and an outstanding balance of \$2500. *Id.* at 91–93. He used the loan to pay for car repairs of about \$1200 and put the remaining \$1800 in a savings account. *Id.* at 91–92. He further testified that he took the loan to build up his credit and acknowledged that he would end up owing more than he had borrowed. *Id.* at 93.

The Individual submitted into the record a public library receipt, dated August 20, 2024, demonstrating that he owed and paid off \$109.94 for past due or unreturned items. Ex. G at 67. When asked why he had submitted this into the record, the Individual testified that he wanted to demonstrate that he had paid off the debt in case it was another issue raised in this proceeding. Tr. at 95.

V. ANALYSIS

Conditions that could mitigate a security concern under Guideline F include:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control . . . 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 . . . ; 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;
- (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.

⁶ The Individual submitted into the record a log of his weekly child support payments. Ex. H at 69. He testified that those payments are reflected in his budget, and he submitted the log to demonstrate that has been meeting his financial obligations. Tr. at 96

I cannot find that mitigating condition ¶ 20(a) applies to resolve the security concerns regarding the Individual's failure to file and pay his taxes. It cannot be said that the failures were infrequent or happened long ago and that the behavior is unlikely to reoccur. First, this behavior occurred every year from tax year 2015 to tax year 2022. Second, the Individual continued to be delinquent in filing several years' tax returns in multiple jurisdictions until August 2024, not even a month before the hearing. Last, the record reflects that the Individual continues to be delinquent in resolving his tax liability.

The Individual introduced some evidence to demonstrate that his initial failure to file and pay his taxes starting in 2015 occurred under circumstances of personal and financial hardship, including his split from the mother of his child, custody proceedings, a stroke, and even incarceration. However, as outlined above, the behavior regarding his tax obligations occurred over an extended number of years, continued up until recently, and still continues with respect to outstanding tax liability. Accordingly, it cannot be said that the circumstances demonstrate that this behavior is unlikely to recur or does not continue to cast doubt on his reliability, trustworthiness, and credibility.

Ultimately, the Individual (1) failed to file tax returns for eight tax years; (2) failed to file the oldest of these delinquencies, the 2015 State 2 tax return, until August 2024, which was over eight years after its due date and less than a month before the hearing; and (3) knew but ignored his obligation to file and pay taxes until prompted. I do acknowledge and credit the Individual for all his concerted efforts made over the last year to resolve his delinquent tax problems. As testified to by his Friend, the Individual, despite working night shifts, would stay up all day to contact tax authorities to remedy his tax issues. Also, he has started to resolve his outstanding tax issues by filing his delinquent returns. However, given the many years that the Individual chose not to take any action to file his delinquent federal and state tax returns, I cannot find that his relatively recent efforts are sufficient to mitigate the security concerns at issue. The Individual's longstanding pattern of inaction towards his tax obligations, despite his awareness, reflects poorly on his judgment, trustworthiness, and reliability, and I cannot make a finding that these issues are unlikely to reoccur. Therefore, I find the Individual has not mitigated the security concerns under mitigating condition ¶ 20(a).

Further, I cannot find that mitigating condition ¶ 20(a) applies to resolve the security concerns regarding his failure to pay his medical debt. First, it cannot be said that the failure to pay his debt was infrequent or happened so long ago when the debt originated at least as early as 2019 and continues to be outstanding five years later in 2024. Furthermore, the Individual could not recall the circumstances surrounding the medical debt sufficiently to demonstrate that this was unlikely to occur or does not reflect on his trustworthiness and judgment. Instead, the record demonstrates that his failure to pay was a recurrent issue given similar incidents in the Individual's financial history—in particular, his extensive failure to pay taxes outlined above and the \$109.94 balance due to the public library. Accordingly, mitigating condition ¶ 20(a) lacks application.

Regarding mitigating condition ¶ 20(b), as stated above, there is some evidence the Individual's failure to file tax returns and to pay taxes were due to personal and financial circumstances. However, I must also consider his concerning and historic lack of initiative in resolving his tax

issues. The Individual's recent steps taken towards resolving his tax issues and personal and financial hardships are outweighed by the Individual's past inaction regarding his obligations to file tax returns and to pay taxes. The Individual admitted to knowing that he must file state tax returns and to owing state taxes since the beginning of his delinquencies starting in tax year 2015. However, he only paid one of his State 1 tax obligations because the tax authority issued his "setup return" and began garnishing his wages. His 2016 taxes for State 2 were only satisfied because the amount due was deducted from his most recent State 1 refund. Additionally, the vast majority of the Individual's late tax returns remained unfiled for years until the Individual felt compelled by the background investigation to resolve his tax issues. Last, the Individual testified that he is still waiting on the tax authorities to reach out to him to pay the taxes that he ultimately owes, further delaying the process of resolving his tax issues. The circumstances were not so severe to outweigh the fact that the Individual knew of, but nevertheless failed to meet, his obligation to file tax returns and to pay taxes. Simply put, not filing his tax returns in multiple jurisdictions over eight years was a matter within the Individual's control. Regardless, the Individual historically took little initiative, if any, in resolving his tax issues until prompted, such as by a wage garnishment by the State 1 tax authority or by the background investigation that led to this proceeding. Accordingly, by acting passively rather than proactively regarding his tax obligations, I cannot find that he has acted responsibly.

Regarding the Individual's outstanding medical debt, as stated above, the Individual cannot recall the circumstances regarding the medical debt and his failure to pay. Accordingly, I cannot find that the Individual's failure to pay was outside of the Individual's control or that he has acted responsibly under the circumstances. Therefore, mitigating condition ¶ 20(b) does not apply.

Regarding mitigating condition ¶ 20(c), the Individual indicated that he has retained a tax preparer who prepared some of his tax returns and perhaps provided advice on how he should pay his back taxes. However, the record does not reflect that the tax preparer provides formal financial counseling and indicates little else regarding the extent of his services. The Individual also testified that he has not started any financial counseling programs. Furthermore, given (1) the number of years he failed to file returns, (2) the delinquency of some of his tax returns up until August 2024, and (3) the outstanding tax liability—there is no clear indication that the problem is resolved or under control. Mitigating condition ¶ 20(c) lacks application.

Regarding mitigating conditions ¶ 20(d) and ¶ 20(g), the Individual engaged in payment plans or outright paid some of his back taxes. However, the record also demonstrates that the Individual had not paid outstanding taxes owed to the State 1 tax authority for tax years 2016, 2017, and 2019; nor has he paid outstanding taxes owed to the State 2 tax authority for tax years 2015 and 2017. It is unclear if he paid his 2019 federal taxes. Accordingly, it cannot be said that he has made arrangements to pay the amounts owed. Mitigating conditions ¶ 20(d) and ¶ 20(g) do not apply.

As to the Individual's outstanding medical debt, the Individual has engaged in a payment plan since February 2024 and has made seven months of scheduled payments. Accordingly, I find that he has initiated a payment plan and continues to make good-faith efforts to resolve this debt. I therefore find that the Individual has mitigated the security concerns pertaining to the medical debt under ¶ 20(d).

Regarding mitigating condition ¶ 20(e), there exists no dispute back taxes are owed. The Individual also did not dispute the medical debt he owed. Furthermore, regarding mitigating condition ¶ 20(f), the security concerns raised by the LSO do not involve unexplained affluence. Accordingly, neither mitigating conditions ¶ 20(e) nor ¶ 20(f) apply.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline 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 only partially resolve the security concerns, specifically the concern arising from his outstanding medical debt. However, he has not brought forth sufficient evidence to resolve the remaining security concerns regarding his taxes set forth in the SSC. Accordingly, I have determined that the Individual's access authorization should not be granted.

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

Brenda B. Balzon
Administrative Judge
Office of Hearings and Appeals