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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: July 23, 2024	)	Case No.: PSH-24-0158
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Issued: November 27, 2024

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**Administrative Judge Decision**

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Katie Quintana, Administrative Judge:

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

**I. Background**

The Individual is employed by a DOE contractor in a position that requires him to hold an access authorization. In August 2023, the Individual completed a Questionnaire for National Security Positions (QNSP). Exhibit (Ex.) 5. In response to questions about his financial record, the Individual disclosed that in the prior seven years, he "had an account or credit card suspended, charged off, or cancelled for failing to pay as agreed." *Id.* at 82.<sup>2</sup> He further reported that, in the prior seven years, he had defaulted on a loan and had "bills or debts turned over to a collection agency." *Id.* An August 2023 credit report showed that the Individual had eleven accounts that had been charged off, totaling \$26,921; the Individual had five accounts that were in collections, totaling \$5,079; and the Individual was 180 days past due to a creditor to which he owed \$6,161. Ex. 4.

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

<sup>2</sup> The exhibits submitted by DOE were Bates numbered in the upper right corner of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by DOE.

Due to security concerns related to the Individual's finances, the Local Security Office (LSO) informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. In the Summary of Security Concerns (SSC) that accompanied the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline F (Financial Considerations) of the Adjudicative Guidelines. Ex. 1 at 5–6.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations to request an administrative review hearing. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted six numbered exhibits (Exs. 1–6) into the record. The Individual introduced seven lettered exhibits (Exs. A–G) into the record and testified on his own behalf. The hearing transcript in the case will be cited as “Tr.” followed by the relevant page number.

## **II. Regulatory Standard**

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all 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 his 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. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

## **III. Notification Letter and Associated Concerns**

As previously mentioned, the Notification Letter included the SSC, which sets forth the derogatory information that raised concerns about the Individual's eligibility for access authorization. The SSC specifically cites Guideline F of the Adjudicative Guidelines. Ex. 1. Guideline F relates to security risks arising from financial distress. It provides that a “[f]ailure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or [an] 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.

In citing Guideline F, the LSO noted that the Individual had the following charge off accounts totaling \$26,921:

1. Creditor A for \$12,784;
2. Creditor B for \$2,325;
3. Creditor B for \$2,160;
4. Creditor B for \$1,960;
5. Creditor C for \$1,776;
6. Creditor D for \$1,638;
7. Creditor E for \$1,189;
8. Creditor F for \$1,110;
9. Creditor D for \$840;
10. Creditor F for \$602; and
11. Creditor G for \$537.

Ex. 1 at 5.

The LSO also cited the following collection accounts totaling \$5,079:

1. Creditor H for \$2,288;
2. Creditor H for \$1,226;
3. Creditor H for \$669;
4. Creditor H for \$456; and
5. Creditor D for \$440.

*Id.* at 6.

Lastly, the LSO cited that the Individual was past due 180 days to Creditor I for \$6,161. *Id.*

#### **IV. Findings of Fact**

At the hearing, the Individual testified on his own behalf. He explained that, in 2023, he divorced his now ex-spouse after being in a thirteen-year long financially destructive relationship. Tr. at 20, 32, 35. He stated that his ex-spouse wanted to live above their means and “improve his living status at [the Individual’s] expense[,]” which led to the downfall of the marriage. *Id.* at 35, 68. The Individual testified that prior to the divorce, the Individual verbally agreed to forfeit “all the equity and personal property from the house, the furnishings, cars, vacation property” in exchange for the ex-spouse paying off the marital debt.<sup>3</sup> *Id.* at 18, 21. The Individual stated that he “was assured” that the debt was paid off prior to the divorce, but he learned, in approximately May 2024, through the course of the security clearance background investigation, that the debts to Creditors B and H

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<sup>3</sup> The Individual testified that because he was “under the impression” that the marital debts were resolved prior to the divorce, their resolution was not included as part of the formal divorce decree. Tr. at 18–20.

remained unpaid. *Id.* at 18–19, 45, 68. The Individual testified that once he became aware of the still outstanding debts, he asked the ex-spouse for assistance in repaying the debts, but “it was not a very pleasant ending to the divorce” and “there was no assistance whatsoever.” *Id.* at 30. He also stated that he had considered filing a small claims suit against the ex-spouse, but he was trying to move on from the relationship and would rather take financial responsibility for the debts. *Id.*

The Individual testified that in November 2024, he enrolled in a debt management and consolidation program and was working to resolve his debts through a nonprofit debt consolidation organization (DCO). *Id.* at 19, 47. The Individual submitted a Debt Management Program Agreement (DMPA), which indicated that the following accounts would be resolved pursuant to the program:

1. Creditor B for \$1,814<sup>4</sup> and \$1,960;
2. Creditor D for \$1,638;
3. Creditor E for \$1,189;
4. Creditor F for \$1,110;
5. Creditor D for \$840; and
6. Creditor F for \$602.

Ex. E. The DMPA indicated that beginning on November 15, 2024, the Individual would make a recurring monthly payment of \$263 to the DCO via an automated clearing house transaction.<sup>5</sup> *Id.*; see Ex. D. The Individual testified that this is a forty-four-month payment plan. Tr. at 51. The Individual also submitted a household budget prepared by the DCO. Ex. B. The budget accounts for the \$263 payment to DCO as well as a monthly payment of \$206.85 to go toward debt that was not included in the DMPA.<sup>6</sup> *Id.* According to the budget, after paying his monthly expenses, along with these two payments, he would have \$351.82 in disposable income.<sup>7</sup> Ex. B.

Regarding the collection accounts for Creditor H, the Individual testified that these were not included in the DMPA as the creditor was not one of the program’s “list of creditors.” Tr. at 29. He noted that he was working with the DCO to repay these debts; however, at the time of the hearing, they remained unresolved, and he had not yet made arrangements to resolve them. *Id.* at 29, 31. Pursuant to the DCO-prepared budget, no money has been allotted to the repayment of these debts. *Id.* at 70–71; Ex. B.

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<sup>4</sup> The DMPA indicates a differing amount for this account than was reflected in the Individual’s credit report. See Ex. A; Ex. 4. The Individual testified that this account is the \$2,325 account that was listed on the SSC as being owed to Creditor B. Tr. at 22.

<sup>5</sup> The hearing was held on November 14, 2024. Following the hearing the Individual submitted documentation, which I accepted into the record, that a transaction of \$263, payable to the DCO, was posted to his bank account on November 18, 2024. Ex. G.

<sup>6</sup> The Individual testified that he has not begun making the \$206.85 payments toward the debt that is not yet covered by the DMPA, and he does not yet know when he will begin making the payment as he is waiting for the DCO to receive validation of outstanding debt amounts. Tr. at 61.

<sup>7</sup> The Individual indicated that his monthly payment towards his debts outside of the DMPA may increase as outstanding debt amounts are verified. Tr. at 70.

The Individual testified that the \$2,160 debt to Creditor B was not included in the DMPA as he had entered into a repayment plan directly with Creditor B. Tr. at 22. He stated that he had been paying \$180 toward the debt for approximately four months and anticipated that it would be paid in full in another four months.<sup>8</sup> *Id.* at 23.

With regard to the \$6,161 overdue debt to Creditor I, the Individual stated that this was attributable to a payday loan that he had secured while he was still married. *Id.* at 32. He stated that the original amount of the loan was \$2,000, but shortly after securing the loan, he moved for a job that later fell through, resulting in the loan not being paid.<sup>9</sup> *Id.* at 34, 36. He stated that this debt repayment was included in the DCO-prepared budget as an anticipated monthly expense, but the DCO was waiting for a validation of the debt amount. *Id.* As such, no money had been allocated to the repayment of this debt in the DCO budget. *Id.* at 70–71; Ex. B.

Regarding the remaining debts due to Creditors A, C, D, and G, the Individual testified that in 2018, he secured a debt consolidation loan through a debt relief program, intended to resolve, in part, the \$1,776 debt to Creditor C, the \$537 debt to Creditor G, and the \$440 debt to Creditor D. Tr. at 11, 14, at 27. The loan was later purchased by Creditor A for \$12,784. *Id.* at 11. He stated that he eventually became aware that the debt relief company did not appear to have appropriately dispersed the funds to resolve these debts pursuant to the loan agreement, and the debts remained outstanding.<sup>10</sup> *Id.* at 11–12. According to the Individual, an attorney subsequently advised him not to make any further payments to Creditor A as there was no proof that funds had been disbursed from the debt consolidation loan to Creditors C, D, and G.<sup>11</sup> *Id.* at 11–12, 14. The Individual was unaware at the time of the hearing if any of the debts to Creditors C, D, or G had been resolved, and he was “working on getting validation of [the] debt” to Creditor A. *Id.* at 11, 15. He further stated that the DCO had directed him to a consumer advocate organization to “sort it out.” *Id.* at 12.

The Individual testified that after learning of the full scope of his debts through the security clearance background investigation, he waited approximately six months to attempt to resolve his debts. *Id.* at 41, 45. He stated that the delay was due to his bad experience with the debt

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<sup>8</sup> Following the hearing, the Individual provided evidence that he made payments of \$400 on July 25, 2024, \$180 on August 27, 2024, and \$20 on November 2, 2024. Ex. G. In submitting this evidence, the Individual noted that the “[i]nital payment of \$400 was to get ahead in payment in case unexpected expenses arose and gave myself a safety net [sic].” *Id.* The \$180 monthly payment is reflected in the DCO-prepared budget in the section outlining the debts that were not included in the DMPA. Ex. B.

<sup>9</sup> The Individual testified to a string of employment struggles beginning in the spring of 2022 and continuing through mid-2023 when he became employed with the DOE contractor. *See* Tr. at 35–40.

<sup>10</sup> When asked to explain why the debts to Creditors C, D, and G did not equate to the \$12,784 due to Creditor A, the Individual testified that there were “probably some debts” encompassed in the loan agreement that the debt consolidation company paid for which he is responsible. Tr. at 15. However, because he could not obtain proof that funds had been dispersed, he was unsure how much the debt consolidation company dispersed. *Id.*

<sup>11</sup> The Individual testified that he filed a dispute with the credit bureaus regarding the debt to Creditor A; however, he did not provide any documentation regarding the dispute. Tr. at 12. Additionally, the Individual did not provide any documentation or other evidence confirming that he had received advice from an attorney to cease payments on the debt.

consolidation company he utilized in 2018 as “it was very hard for [him] to come to terms with finding someone to help because the previous help that [he had] gotten really didn’t help.” *Id.* After receiving a recommendation from a coworker and doing his own research, he was satisfied that the DCO was a legitimate debt counseling and consolidation organization. *Id.* at 42, 46. The Individual testified that through the DCO, he has received budget counseling, which consisted of an approximately three-hour long phone call going over his budget and the DMPA. *Id.* at 73. He explained that the DCO has other resources, including credit counseling classes and budgeting classes. *Id.* He stated that he intends to attend those classes as well as use the financial resources available through his worksite. *Id.*

## **V. Analysis**

### **A. Guideline F**

An individual may be able to mitigate security concerns under Guideline F though the following conditions:

- 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 . . . 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; 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.

At the time of the hearing, the Individual had begun paying one outstanding debt to Creditor B through a payment plan and had begun the process of resolving six of his outstanding debts through the DCO. He submitted evidence that he has paid \$600 to Creditor B and made one payment to the DCO pursuant to the DMPA. Although I recognize that the Individual appears to be making

good-faith efforts to repay these debts, I cannot yet find that the Individual is adhering to the payment plans. One payment to the DCO is not sufficient to establish adherence to the forty-four-month plan. Further, the Individual testified that he had been making monthly payments of \$180 to Creditor B for four months, but the record does not support this testimony. The Individual made one large payment of \$400 in July 2024, followed by a payment of \$180 in August 2024 and a payment of \$20 in November 2024. The record is devoid of any proof of a payment in September or October 2024. Furthermore, although the Individual is paying down seven of his debts through the DCO and a payment plan with Creditor B, ten of his outstanding debts remain unaddressed. As such, I cannot find that the Individual has mitigated the security concerns pursuant to mitigating factor (d). *Id.* at ¶ 20(d).

I recognize that the Individual has received some financial counseling through the DCO with regard to establishing a budget. However, due to its recency, it is not yet clear that the Individual can abide by the budget. Furthermore, at the time of the hearing, the budget had no money allocated to the repayment of the debts due to Creditors H or I. As such, I cannot find that there are clear indications that the budget and budget counseling has resolved the Individual's financial challenges. *Id.* at ¶ 20(c).

Based on the Individual's testimony, it appears that there may have been circumstances that led to the Individual's financial problems that were beyond the Individual's control, namely job struggles and a financially detrimental relationship. However, I have no evidence before me to support the Individual's testimony that his ex-spouse was irresponsible with their finances or agreed to pay off the marital debt prior to the divorce. Without such corroborating evidence, I cannot find that the circumstances that led to the Individual's financial problems were largely beyond his control. *Id.* at ¶ 20(b). Furthermore, although it is understandable that the Individual may have been hesitant to pursue debt consolidation given his negative experience in 2018, I cannot find that waiting six months before taking substantial action on the repayment of these debts was responsible under the circumstances. *Id.* Given that the Individual has been struggling with his finances since at least 2018 and his debts remain unresolved, I cannot find that the financial problems occurred so long ago or so infrequently that they do not cast doubt on the Individual's current reliability, trustworthiness, or good judgment. *Id.* at ¶ 20 (a).

The Individual does not dispute the legitimacy of sixteen of his seventeen outstanding debts. With regard to Creditor A, the Individual does not dispute that the company resolved some of the debt encompassed in the loan agreement and accepts that he is responsible for repaying a portion of that loan. Furthermore, the Individual has not submitted any corroborating evidence showing the terms of debt consolidation loan, that he has formally disputed the debt, or that he received any advice from a professional regarding this debt. As such, I cannot find that the Individual has mitigated the security concerns pursuant to factor (e). *Id.* at ¶ 20(e).

There is no allegation of affluence, and taxes are not at issue in this case. As such, mitigating factors (f)–(g) are not applicable here. *Id.* at ¶ 20(f)–(g).

I cannot find that the Individual has resolved the Guideline F security concerns.

## **VI. Conclusion**

For the reasons set forth above, I conclude that the LSO properly invoked Guideline F of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the Guideline F security concerns. Accordingly, I find the Individual has not demonstrated that granting his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I find 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.

Katie Quintana  
Administrative Judge  
Office of Hearings and Appeals