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**United States Department of Energy**  
**Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing

Filing Date: August 1, 2024

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Case No.: PSH-24-0165

Issued: November 26, 2024,

## Administrative Judge Decision

James P. Thompson III, 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 should not be granted access authorization.

## I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires possession of a security clearance. During the investigation into his eligibility to possess a security clearance, the Individual disclosed to the DOE Local Security Office (LSO) that he had several delinquent debts. Subsequently, the LSO asked the Individual to complete a Letter of Interrogatory (LOI). In his LOI response, the Individual provided more details regarding his financial circumstances and reported that he intended to file bankruptcy. Over one year after the Individual submitted his LOI response, the LSO determined that the Individual had not yet filed bankruptcy and still owed significant delinquent debt. Consequently, the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding his eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines.

<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.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. 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. At the hearing, the Individual testified on his own behalf. The Individual submitted one post-hearing exhibit marked Exhibit A. The LSO submitted thirteen exhibits, marked Exhibits 1 through 13.

## **II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

As indicated above, the LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as the basis for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1. Guideline F provides that that an individual's "[f]ailure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines at ¶ 18. Conditions that could raise a security concern include an individual's "inability to satisfy debts" and "a history of not meeting financial obligations . . . ." *Id.* at ¶ 19(a), (c). In the SSC, the LSO cited that the Individual disclosed in a March 2023 Questionnaire for National Security Positions (QNSP) having six delinquent accounts due to being "laid off"; he subsequently discussed having five delinquent accounts in August 2023 totaling \$12,950 and stated his intention to file for bankruptcy; and, in May 2024, he still had several delinquent debt accounts and had not yet filed for bankruptcy. Ex. 3 at 4–5. 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 of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting his or her 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.

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

#### IV. FINDINGS OF FACT

The record includes the March 2023 QNSP in which the Individual initially disclosed the following six delinquent accounts: a vehicle repossession account for \$8,841, another vehicle repossession account for \$7,357, an account for \$2,092, an account for \$722, an account for \$4,585, and an account for \$1,475. Ex. 10 at 11–13. In disclosing the various delinquent debts, he reported that he “got in over his head” and could not afford the bills because he was “laid off at the time . . . .” *Id.* He also reported that he was “currently working to file bankruptcy to resolve these debts as soon as [he] can financially do so.” *Id.* at 13. The record also includes a contemporaneous credit report for the Individual. Ex. 11 at 70–73. That report identifies an additional delinquent account that totaled \$118.<sup>2</sup> *Id.*

Months later, in June 2023, the Individual provided additional information regarding the seven delinquent accounts during an interview with an investigator. *Id.* at 54–58. The Individual reported that his financial troubles began when he was unexpectedly “laid off” in August 2022, and he remained unemployed for eight weeks. *Id.* at 55. As a result, he was not able to afford his living expenses, his existing credit card debt, or payments on the two vehicle loans. *Id.* Both vehicles were repossessed within six weeks, which resulted in the delinquent accounts identified in the SSC for vehicle 1 totaling \$8,841 and for vehicle 2 totaling \$7,357. *Id.* He also stated that the delinquent account he disclosed in the QNSP totaling \$2,092 was the remaining balance from a personal loan he obtained to purchase a classic vehicle in 2020, and he similarly defaulted on this debt as a result of losing his job. *Id.* at 56. Lastly, he explained that the \$772 account, the \$118 account, the \$4,585 account, and the \$1,475 account were credit accounts that he could not repay as a result of his unemployment. *Id.* at 56. He also claimed that he had consulted with lawyers regarding filing for bankruptcy, and the lawyers advised him to refrain from making any payments to creditors if he planned to file for bankruptcy. *Id.* He stated that he planned to file for bankruptcy as soon as he was able to afford it because he believed it would improve his financial situation. *Id.*

In December 2023, the Individual provided his LOI response to the LSO’s request for updated information regarding the status of his delinquent debts. Ex. 12 at 5. Therein, he reported that he had not yet made any payments on the outstanding balances he discussed with the investigator, and he repeated his intent to resolve his outstanding debts by filing for bankruptcy when he was able to afford an attorney. *Id.* at 3–4. The LSO obtained a May 2024 credit report for the Individual. Ex. 13. That report identified that the accounts for \$7,357, \$772, \$4,585 and \$1,476 remained delinquent. *Id.* at 1–5. It did not list or provide the status of the accounts for \$8,841 or \$2,092. *Id.*

At the hearing, the Individual did not dispute the accuracy of the allegations contained in the SSC regarding his delinquent debt. Transcript of Hearing, OHA Case No. PSH-24-0165 (Tr.) at 21–22. He testified that he only failed to stay current with his financial obligations because he lost his job in 2022. *Id.* at 19. He also confirmed that he had not yet resolved the delinquent debts listed in the

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<sup>2</sup> The credit report listed two separate accounts for \$118; however, the Individual explained that they represent a single delinquent debt. Ex. 11 at 56.

May 2024 credit report, aside from one medical bill, nor filed for bankruptcy. *Id.* at 15–16. He also confirmed that he had not made arrangements or taken any other steps to resolve the debts; he instead focused on taking care of his young child and family. *Id.* at 16–17. He concluded by stating that he intends to address his delinquent debt at a future date once he feels “stable enough to take care of it . . . .” *Id.* at 19–20. After the hearing, the Individual submitted a screenshot of a receipt that indicates he made a September 2024 payment to a creditor for \$118. Ex. A.

## V. ANALYSIS

Under Guideline F, the following conditions could mitigate security concerns based on financial considerations:

- (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, . . . divorce or separation . . .), 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.

I find that none of the above conditions apply to resolve the Guideline F concerns. I first find that ¶ 20(a) does not apply because the Individual has not yet resolved seven of the eight delinquent accounts listed in the SSC. I further explain my rationale for this finding below. I also find that ¶ 20(b) does not apply because the record does not demonstrate the Individual acted responsibly after losing his job in 2022. Approximately two years have passed since his eight-week period of unemployment ended, and several of his delinquent debts remain unresolved or virtually unchanged because the Individual has decided not to take any steps to address them other than consulting with a lawyer in 2023. Furthermore, there is insufficient evidence in the record for me

to determine whether the Individual resolved the \$8,841 vehicle account or the \$2,092 account or whether the May 2024 credit report merely failed to capture them. I conclude these accounts remain unresolved because the Individual testified that he had only resolved the \$118 account. However, even if I were to conclude that he had resolved the two unlisted accounts, the record demonstrates that he has not taken any action to address any of the delinquent accounts listed in the May 2024 credit report. Accordingly, I find that neither ¶ 20(c) nor ¶ 20(d) apply. Turning to ¶ 20(e), it does not apply because the Individual does not dispute the legitimacy of his delinquent debt. Lastly, I find ¶ 20(f) and ¶ 20(g) are patently inapplicable because the concerns outlined in the SSC are not based on unexplained affluence or obligations related to taxes.

## 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 of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the SSC. Accordingly, I have determined that the Individual should not be granted access authorization.

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



James P. Thompson III  
Administrative Judge  
Office of Hearings and Appeals