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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: November 20, 2024)	Case No.: PSH-25-0030
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_____)	

Issued: April 1, 2025

Administrative Judge Decision

Erin C. Weinstock, 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."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 be granted.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires him to hold an access authorization. Exhibit (Ex.) 1 at 7.² In August 2023, the Individual completed a Questionnaire for National Security Positions (QNSP) in which he disclosed that he had failed to file his federal tax return in 2020, 2021, and 2022.³ Ex. 7 at 125–26. He also disclosed that he had one account totaling approximately \$4,000 in collections.⁴ *Id.* at 127–28. During an enhanced subject interview (ESI) in December 2023, the Individual confirmed this information to an investigator, but explained that since filling out the QNSP he had filed his 2020 tax returns. Ex. 8 at 194. As a result of the

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 Local Security Office's (LSO) exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

³ The Individual also failed to file his state tax returns for these years. Ex. 1 at 5. It is not clear from the record how the LSO found this derogatory information.

⁴ Upon reviewing the Individual's credit report, the LSO determined that the Individual had two separate delinquent accounts from the same financial institution, worth about \$4,000 in total. Ex. 11

Individual's disclosures, the Local Security Office (LSO) issued the Individual a Letter of Interrogatory (LOI), which the Individual completed in August 2024. Ex. 5.

The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 5. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines. *Id.*

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 conducted an administrative hearing. The LSO submitted nine exhibits (Ex. 1–9). The Individual submitted six exhibits (Ex. A–F). The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-25-0030 (Tr.).

II. THE SECURITY CONCERNS

Guideline F, under which the LSO raised the security concerns, relates to security risks arising from financial concerns. “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. In citing Guideline F, the LSO relied upon the Individual's admission that he had not filed his federal or state tax returns in 2021 and 2022 and that he had two accounts, worth about \$4,000 in total, in collections. Ex. 1 at 5. The information cited by the LSO justifies its invocation of Guideline F. *See* Adjudicative Guidelines at ¶ 19(a), (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 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).

An 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). An 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. *Id.* at

§ 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

In 2020, the Individual and his wife failed to file their state and federal tax returns because they were busy and missed the deadline. Ex. 8 at 194. The failure to file their 2020 tax returns created a “domino effect” that led to failure to file state and federal tax returns in 2021 and 2022 as well. *Id.* In order to avoid penalties for his 2020 tax returns, the Individual decided to file separately from his wife. *Id.* The Individual and his wife filed their federal tax returns for 2021 and 2022, jointly, in November 2024. Ex. A; Ex. B; Ex. C; Ex. D; Tr. at 10–12. For 2021, the Individual and his wife received a federal refund of approximately \$10,000. Ex. A. For 2022, the Individual and his wife received a federal refund of approximately \$4,700. Ex. C. The Individual and his wife also filed their state tax returns in November 2024. Ex. A; Ex. C; Tr. at 12. They received a state refund of approximately \$1,000 for their 2021 state tax returns. Ex. A. The Individual and his wife received a state refund of approximately \$2,000 for their 2022 state tax returns. Ex. C.

As to the two accounts in collections, the Individual explained at the hearing that those two accounts were credit card debts he had accumulated when he was younger. Tr. at 15–16. The Individual paid off one account in November 2024. Ex. E; Tr. at 21. The Individual set up a payment plan for the other account, but before he made any payments, he realized that it would be cheaper to pay off the debt in full. Tr. at 22. Therefore, in December 2024, the Individual paid off the second debt in full. Ex. F; Tr. at 21.

The Individual testified that he is much more financially responsible now than he was when he accumulated his debts. Tr. at 25. He and his wife have created a budget that accounts for all of their regular expenses and are currently budgeting to save about \$4,000 a month so that they can make improvements to their family home. *Id.* at 26. They have also accumulated significant assets that they can use to prevent themselves from getting into debt in the future. *Id.* at 27. The Individual has also learned the importance of filing his tax returns in a timely manner from this experience. *Id.* at 25. He testified that he and his wife planned to file their tax returns for 2024 the week of the hearing, a full month before the deadline. *Id.*

V. ANALYSIS

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

- a) the behavior happened so long ago, was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or 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 (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by 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 action to solve the issue;

f) the affluence resulted from a legal form or income; and

g) the individual 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.

Here, the security concerns are mitigated pursuant to mitigating conditions (d) and (g). The Individual took responsibility for his debts, made a plan to pay the remaining balance on the debts, and showed that he followed through on that plan, resolving the debts at issue here. Thus, the security concerns related to his debts are resolved pursuant to mitigating condition (d).

As to the security concerns related to the Individual's failure to file his tax returns, the Individual has shown that he has filed both his state and federal tax returns for 2021 and 2022 and that he did not owe any money to either state or federal tax authorities. As such, the security concerns related to his failure to file his tax returns are resolved pursuant to mitigating condition (g).

Accordingly, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline F.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise 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 resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Erin C. Weinstock
Administrative Judge
Office of Hearings and Appeals