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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: May 22, 2025 )  
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Case No.: PSH-25-0126

Issued: August 7, 2025

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**Administrative Judge Decision**

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Andrew Dam, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (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."<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 be granted.

**I. BACKGROUND**

The Individual applied for access authorization in connection with his employment with a DOE contractor. Exhibit (Ex.) 1 at 6.<sup>2</sup> In April 2024, the Individual submitted a Questionnaire for National Security Positions (QNSP). Ex. 7 at 90. In the QNSP, the Individual indicated that he had failed to file federal and state tax returns within the last seven years. *Id.* at 80. In particular, he indicated he had not filed federal and state tax returns for tax years 2016, 2017, and 2018. *Id.* at 80–81. The LSO issued to the Individual a Letter of Interrogatory (LOI) to which the Individual responded in March 2025; the Individual in his response indicated he had also not filed his federal and state tax returns for tax year 2020. Ex. 6 at 28, 36.

Due to the unresolved security concerns associated with his failure to file his tax returns, the LSO, in April 2025, informed the Individual in a Notification Letter that it possessed reliable information creating substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 6–7. In an

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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> 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.

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 at 10–11. 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 (Ex. 1–8) into the record. The Individual submitted 18 exhibits in four separate PDF files (Ex. A–R).<sup>3</sup> The first PDF file is comprised of his witness list, two unmarked letters, and then exhibits marked as Exhibits A through K. I have deemed the unmarked letters as Exhibits L and M. *See* Transcript of Hearing, OHA Case No. PSH-25-0126 (hereinafter cited as “Tr.”) at 14. The second PDF consists of the following unmarked exhibits: (i) a 2017 federal tax transcript; (ii) a 2018 federal tax transcript; and (iii) proof of delivery of the 2016, 2017, and 2018 federal tax returns. These are respectively designated as Exhibits N, O, and P. *Id.* at 14–15. After the hearing, the Individual submitted two screenshots as separate PDFs, which I have deemed as Exhibits Q and R. The Individual testified on his own behalf. Tr. at 3. He also offered the testimony of a family friend (Family Friend), a coworker (Coworker), and a former manager (Former Manager). *Id.* The LSO presented no witnesses.

## II. NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as the basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 5. “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 is the “failure to file . . . annual [f]ederal, state, or local income tax returns or failure to pay annual [f]ederal, state, or local income tax as required[.]” *Id.* at ¶ 19(f). The SSC cited the Individual’s failure to file federal and state tax returns for tax years 2016, 2017, 2018, and 2020. Ex. 1 at 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

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<sup>3</sup> References to the Individual’s exhibits are to the exhibit letter and the PDF page number.

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 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.

#### IV. FINDINGS OF FACT

##### *a. The Individual’s Background*

The Individual believed that prior to the onset of his tax issues, which began with tax year 2016 when he was 22 years old, the Individual’s maternal grandfather assisted the Individual with filing his taxes. Ex. 8 at 159 (Individual’s statement during a July 2024 Enhanced Subject Interview (ESI) that “he believed his grandfather had been filing the [Individual’s] taxes”). The Individual explained that he believed his grandfather stopped helping him with his taxes when the Individual had moved away. Tr. at 63–64 (“[T]hat’s around the time that I left . . . .”); *see also id.* at 47–48 (testifying that he was living with his mother in around 2016). The Individual confirmed that, growing up, he received no instruction on his finances and tax obligations. *Id.* at 47–48, 64.

##### *b. 2016, 2017, 2018, and 2020 Tax Returns*

During the investigative process, the Individual disclosed his failure to timely file his federal and state returns for tax years 2016, 2017, 2018, and 2020. Ex. 6 at 26–28, 34–35; Ex. 7 at 80–81; Ex. 8 at 159. The Individual testified that he “had no understanding” of his tax obligations prior to the investigative process. Tr. at 48. However, the Individual began to “understand [that] it’s important to file taxes after going through all this . . . .” *Id.*; *see also id.* at 23 (Family Friend testifying that the Individual “said he made a big mistake by not filing his taxes . . .”).

The Individual’s Family Friend testified that, when the Individual experienced issues with securing his clearance due to his tax issues, the Individual came to him in early 2025 expressing concern and confusion. *Id.* at 25, 29. The Individual’s Family Friend advised the Individual “to go to one of th[o]se mainstream places” for sorting out his tax issues. *Id.* at 29. The Individual testified that he originally tried to file his past due tax returns with Turbo Tax and H&R Block via their respective online portals but that he could not file his overdue tax returns with them given the age of the tax returns at issue. *Id.* at 54.

Sometime later in 2025, the Individual hired a professional tax preparation company to assist him with preparing the tax returns. *Id.*; *see also* Ex. M at 3 (letter from professional tax preparer (Tax Preparer) indicating that “[i]n 2025 [the Individual] hired my company to file his past income tax[] [returns] (2016, 2017, 2018[,] and 2020)”). The letters from the Tax Preparer, dated April 2025,

reflect that for tax years 2016, 2017, 2018, and 2020, the Tax Preparer prepared the Individual's tax returns and instructed him to sign and mail them to the appropriate respective tax authorities. Ex. A at 4; Ex. B at 9; Ex. C at 14; Ex. D at 19. The Individual submitted copies of those prepared tax returns as documentary evidence. Ex. A at 5–8 (copies of 2018 federal and state tax returns); Ex. B at 10–13 (copies of 2017 federal and state tax returns); Ex. C at 15–18 (copies of 2020 federal and state tax returns); Ex. D at 20–23 (copies of 2016 federal and state tax returns). The Individual indicated that he mailed the tax returns to the federal and state tax authorities in April 2025. Tr. at 52–53.

Regarding the Individual's state tax returns, the Individual submitted a June 2025 letter from the state tax authority that explicitly states that he “submitted all required reports” and “ha[d] no outstanding tax liability on taxes as reported[.]” Ex. J at 34. The Individual submitted a June 2025 receipt from the state tax authority demonstrating that over those four delinquent tax years he owed \$5,249.39 in total. Ex. H at 32. The same receipt reflects payment of the total tax liability. *Id.*; see also Tr. at 50 (Individual's testimony that, as of the date of hearing, he had paid all of his state taxes in full).

Regarding the federal tax returns, the Individual testified that, prior to the hearing date, he had called the Internal Revenue Service (IRS) and that an IRS employee indicated to him that the IRS had no documentation of the federal tax returns being mailed or submitted except for the 2020 return. Tr. at 52–53. The Individual testified that, as a result, he went to an IRS office to deliver the 2016, 2017, and 2018 federal tax returns. *Id.* at 15, 60. The Individual submitted, as documentary evidence, pages from his 2016, 2017, and 2018 federal tax returns bearing IRS stamps, which are dated in July 2025 and read “PROOF OF DELIVERY-Not An Official Receipt[.]” Ex. P at 3–5 (formatting in original).

The Individual submitted IRS Account Transcripts for tax years 2017, 2018, and 2020 reflecting that the IRS received the tax returns for those respective tax years. Ex. N at 1 (2017 IRS Account Transcript reflecting “[t]ax return secured” in July 2025); Ex. O at 2 (2018 IRS Account Transcript reflecting “[t]ax return secured” in July 2025); Ex. G at 30 (2020 IRS Account Transcript reflecting receipt of the tax return in April 2025 and processing in June 2025). At the hearing, the Individual testified that “the only [IRS] account transcript[ ] [he] [was] waiting for is . . . 2016.” Tr. at 58.

### **c. 2019 Tax Returns, 2021 to 2024 Tax Returns, and Future Intent to Fulfill Tax Obligations**

The Individual was asked why he had filed his 2019 tax returns but then failed to file his 2020 tax return. Tr. at 65. The Individual testified that, for the first time, his then-fiancée had told him that he needed to file his tax returns for that tax year. *Id.* The Individual testified that, despite having filed his 2019 tax returns per his then-fiancée's advice, he continued believing that this was not a requirement and thus skipped filing his returns for tax year 2020. *Id.* He indicated that they “were going back and forth” regarding his filing obligations and recalled “trying to show her” online sources that indicated filing tax returns was not required. *Id.* at 65–66. The Individual acknowledged in his testimony that the online sources were “misinformation.” *Id.* at 66.

Eventually, the two married in 2021. *Id.*; *see also* Ex. 7 at 63. The Individual testified that he and his wife have since filed their taxes jointly. Tr. at 66; *see also* Ex. 6 at 28–29, 36–37 (March 2025 response to LOI indicating that federal and state tax returns had been filed for tax years 2021 through 2023). The Individual submitted a screenshot from an “irs.gov” website reflecting that they had no outstanding tax balances due for tax years 2022 through 2024. Ex. K at 35. The Individual testified that, going forward, it was his intention to file his annual tax returns and to pay his taxes. Tr. at 56. Specifically, he testified that he would continue using the Tax Preparer for preparing his joint filings every year. *Id.* at 48, 57, 67. The Individual’s Family Friend provided testimony indicating that the Individual had expressed to him the same intention: “[The Individual] said that he is going to make sure that he takes care of his taxes moving forward . . . .” *Id.* at 24.

The Individual testified that he is not experiencing any financial issues or barriers to paying taxes. *Id.* at 56–57. He also testified that he has no issues with gambling. *Id.* at 57. The Individual’s witnesses generally testified to the same. *See id.* at 22 (Family Friend’s testimony that the Individual “doesn’t have anything flashy” and that he was unaware of the Individual borrowing money), 36 (Former Manager’s testimony that he has not observed the Individual living outside of his means with respect to his personal possessions and vehicle), 42 (Coworker’s testimony that he does not observe the Individual living outside his means).

## 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.

As a preliminary matter, the cited security concerns are for the Individual's failure to file his federal and state tax returns from tax years 2016, 2017, 2018, and 2020. Accordingly, mitigating conditions (d), (e), and (f) lack application since the cited security concerns do not involve overdue or unresolved debts or unexplained affluence.

Regarding mitigating condition (a), the behavior—taking no action to file his 2016, 2017, 2018, and 2020 federal and state tax returns—occurred regularly for several tax years. Furthermore, the Individual undertook no steps to remedy this issue until after he applied for access authorization. Accordingly, I cannot find that the behavior to have occurred “infrequent[ly]” or “so long ago.” The circumstances under which this behavior occurred include the Individual's mistaken belief that tax returns did not need to be filed. However, despite having been informed of his tax filing obligations by his then-fiancée for tax year 2019, the Individual continued to not file his outstanding 2016, 2017, and 2018 tax returns and then failed to file his 2020 tax returns, reflecting poor judgment. Mitigating condition (a) does not apply.

Regarding mitigating condition (b), there is some testimony that the Individual had an upbringing lacking adequate financial instruction. However, the Individual has demonstrated that with the assistance of a tax preparer, he could file his returns. Accordingly, I cannot find that the issues were “largely beyond” his control. Mitigating condition (b) does not apply. Furthermore, no evidence was put forth regarding financial counseling, and I cannot find that mitigating condition (c) applies.

Regarding mitigating condition (g), the Individual has filed the tax returns at issue with the appropriate tax authorities. As noted above, the Individual has submitted proof that his state tax returns have all been filed. The Individual also submitted tax transcripts wherein the IRS acknowledged receipt of the 2017, 2018, and 2020 tax returns, and he has taken all the necessary steps to file the 2016 tax return—providing proof of delivery. Mitigating condition (g) applies.

As such, I find that the Individual has mitigated the security concerns raised under Guideline F.

## **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 resolve the 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.

Andrew Dam  
Administrative Judge  
Office of Hearings and Appeals