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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 18, 2025)	Case No.: PSH-25-0171
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Issued: December 9, 2025

Administrative Judge Decision

Phillip Harmonick, 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 restored.

I. BACKGROUND

On October 7, 2020, the Individual completed and signed a Questionnaire for National Security Positions (QNSP) in connection with seeking access authorization. Exhibit (Ex.) 6 at 72.² The Individual disclosed in the QNSP that he had not filed federal or state personal income tax returns as required or paid federal or state personal income taxes for tax years 2018 and 2019. *Id.* at 60–61. On October 28, 2020, the Individual was interviewed by an investigator as part of a background investigation into his eligibility for access authorization. Ex. 8 at 161. The Individual told the investigator that the unpaid taxes were related to payroll taxes for a business that the Individual previously owned. *Id.* at 162–63. The Individual disclosed that, in addition to not filing required tax returns for the 2018 and 2019 tax years, he had also failed to file required tax returns for the 2017 tax year. *Id.* The Individual represented to the investigator that he was working with a bookkeeper (Bookkeeper) to assist him in preparing his unfiled tax returns and developing a payment plan to pay the back payroll taxes he owed. *Id.*

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 The exhibits submitted by the local security office (LSO) 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 the LSO.

On March 30, 2021, the LSO issued the Individual a letter of interrogatory (First LOI) concerning his financial situation. Ex. 7. In his response,³ the Individual indicated that he had not filed federal or state personal income tax returns as required for tax years 2017 through 2019⁴ and had not filed “payroll taxes” for tax years 2017 through 2020. *Id.* at 75–82. He claimed that the Bookkeeper was “working on” his tax issues and that his tax returns for tax years 2017 through 2020 would be filed “asap.”⁵ *Id.* at 77–82. The Individual was subsequently granted access authorization.

In October 2024, the LSO received a personnel security information report revealing that the Individual’s wages were being garnished to satisfy a civil judgment of nearly \$60,000. *See* Ex. 3 at 10–11 (describing the history of the review by the LSO of the Individual’s eligibility for access authorization in a case evaluation sheet). Upon additional review, the LSO learned that, in addition to the tax issues previously disclosed by the Individual, the Individual “was delinquent in filing his 2012 to 2016 [s]tate and Federal taxes, and payroll for his company employees.” *See id.* at 10.

The LSO issued the Individual an LOI (Second LOI) in February 2025 concerning the new information related to his financial situation. Ex. 5. In his response⁶ to the Second LOI, the Individual did not respond to a question from the LSO concerning the status of his personal income tax returns for tax years 2012 to 2016.⁷ *Id.* at 16. In response to a question concerning the status of the payroll taxes for tax years 2012 through 2019, the Individual stated that they were “still in the works.” *Id.* at 21–22. Additionally, the Individual represented that he had filed federal and state personal income tax returns for tax years 2023 and 2024 and that he owed approximately \$10,000 in unpaid personal income taxes for tax year 2023. *Id.* at 21. However, in a May 2025 response to a subsequent LOI (Third LOI), the Individual admitted that he had not yet filed his federal and state personal income tax returns for the 2024 tax year. Ex. 4 at 13.

The LSO 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 4–6. 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.* at 3.

³ As discussed *infra*, the Individual claimed that his wife submitted the response to the First LOI.

⁴ The Individual claimed that he had filed federal and state personal income tax returns for the 2020 tax year and did not owe any unpaid personal income taxes for that tax year. Ex. 7 at 81.

⁵ Although not alleged as a security concern by the LSO, the Individual stated in response to the First LOI that he had unresolved payroll taxes for the 2020 tax year. Ex. 7 at 77. As the LSO did not allege that the Individual’s compliance with his obligations to file tax returns or pay taxes for the 2020 tax year presented security concerns, the 2020 payroll taxes will not be discussed in this Decision.

⁶ As with the First LOI, the Individual claimed that his wife submitted the response to the Second LOI.

⁷ The specific question asked the Individual to confirm the accuracy of information obtained by the LSO concerning delinquent debts owed by the Individual, the Individual’s federal and state personal income tax returns for 2012 to 2016, and the unpaid payroll taxes. Ex. 5 at 16. In his response, the Individual stated, “I was unaware of the collections and the charge off. I will research this and get them paid.” *Id.* Thus, the Individual neither confirmed nor denied the LSO’s allegation concerning his personal income tax returns for tax years 2012 through 2016.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 11. 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 on November 21, 2025. The LSO submitted nine exhibits (Ex. 1–9).⁸ The Individual submitted nine exhibits (Ex. A–I). The Individual testified on his own behalf and offered the testimony of his daughter. Hearing Transcript, OHA Case No. PSH-25-0171 (Tr.) at 3, 23, 34. The LSO did not call any witnesses to testify.

II. THE 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 3. “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. The SSC alleged that the Individual had not filed federal or state personal income tax returns for tax years 2012 through 2019 and 2024 and that his failure to meet tax obligations persisted despite committing to resolving his tax issues in response to the First LOI in 2021. Ex. 1 at 3. The LSO’s allegations that the Individual demonstrated a history of not meeting financial obligations and failed to file Federal and state personal income tax returns as required justify its invocation of Guideline F. Adjudicative Guidelines at ¶ 19(c), (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 Dep’t of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest”

⁸ The Individual objected to the admission of Ex. 4, Ex. 5, and Ex. 7 on the basis that his wife had written the responses to the LOIs, signed them in his name, and submitted them to the LSO. Tr. at 8–10; *see also id.* at 10 (stating that he could not remember if he provided information to his wife to include in the responses to the LOIs and that he did not remember reviewing the contents of the responses before they were submitted to the LSO); Ex. 9, Att. 14 at 4 (notes of a representative of the LSO indicating that the Individual asked her to send the Third LOI to his wife in a phone conversation and that the representative told the Individual that he could forward the email sent to his email address containing the Third LOI to his wife). After the LSO submitted Ex. 9 following the hearing, the Individual was provided an opportunity to respond and objected to the admission of Ex. 9 on the basis that it was submitted after the hearing. I overruled each of the Individual’s objections. As an initial matter, there were no substantive indicia that the Individual’s wife had completed or submitted Ex. 4, Ex. 5, or Ex. 7 as the Individual alleged, much less that she had done so without his knowledge or input. As to Ex. 9, I authorized the LSO to submit the exhibit after the hearing to help me evaluate the Individual’s claims with respect to Ex. 4, Ex. 5, and Ex. 7. Tr. at 11–12. Moreover, the exhibits in question were relevant and material and the Individual did not put forth sufficient basis to establish that exclusion of the exhibits would be appropriate. *See* 10 C.F.R. § 710.26(h) (stating the standard for admission of exhibits in a Part 710 proceeding).

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 his or her eligibility for an access authorization. The Part 710 regulations are drafted so as 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. Individual’s Marriage and Disappearance of His Wife

The Individual and his wife married over twenty years ago. Tr. at 37. The Individual’s wife had significant responsibility over managing household finances and the finances of a business owned by the Individual. *Id.* at 36–37, 39, 65; Ex. D (letter from Bookkeeper indicating that the Individual’s wife had interacted with him regarding the couple’s tax returns). In 2025, the Individual’s wife disappeared. Tr. at 25. As of the date of the hearing, the Individual’s wife remained a missing person.⁹ *Id.* at 31.

B. Individual’s History of Failing to Meet His Tax Obligations

At some point in 2007 or 2008, a business owned by the Individual failed to pay approximately \$22,000 in federal and state payroll taxes. Ex. 8 at 162; *see also id.* (Individual attributing the business’ inability to meet payroll tax obligations to clients failing to make payments for services during the Great Recession). The Individual entered into payment plans to resolve the payroll tax obligations but eventually fell out of compliance with those arrangements. *Id.* Additionally, the Individual and his wife did not timely file federal or state personal income tax returns for tax years 2012, 2013, 2014, 2015, 2016, 2017, 2018, or 2019. Tr. at 40–44, 56; Ex. 7 at 75–82.

On October 28, 2020, the Individual was interviewed by phone by an investigator as part of the adjudication of his eligibility for access authorization. Ex. 8 at 161. During the interview, the Individual indicated that he had not filed federal personal income tax returns for tax years 2017, 2018, or 2019, and that his unpaid payroll taxes were not resolved. *Id.* at 161–62. The Individual told the investigator that “he began working with [the Bookkeeper]” to file his tax returns. *Id.* at 162–63; *see also* Tr. at 68–69 (testifying in the hearing that, although he did not remember the details of the interview, his statements to the investigator would have had to have been about personal income tax returns). He further estimated that he owed at least \$58,000 in unpaid federal and state taxes due to the accumulation of penalties and interest and stated that he intended to enter into payment plans to resolve the unpaid taxes. Ex. 8 at 163. The Individual and the investigator

⁹ I have taken judicial notice of publicly available information concerning the disappearance of the Individual’s wife and accept the Individual’s and his daughter’s account of the event.

did not discuss the Individual's unfiled personal income tax returns for the years preceding 2017. *Id.* at 162–66.

In July 2021, the Bookkeeper prepared personal income tax returns for the Individual and his wife for tax years 2012, 2013, and 2014. Ex. D. However, the tax returns were never retrieved from the Bookkeeper by the Individual or his wife. *Id.* According to the Bookkeeper, the Individual's wife "was to provide additional documentation to prepare the returns for 2015, 2016, 2017, 2018, and 2019," but failed to do so. *Id.*

The Individual did not pay his federal and state personal income taxes as required for tax years 2023 and 2024. Ex. 5 at 21. In the Individual's response to the Second LOI, the Individual estimated that he owed approximately \$10,000 in unpaid personal income taxes for the 2023 tax year and indicated that he did not know how much he owed for the 2024 tax year. *Id.* The Individual also failed to timely pay local property taxes associated with a residence he owed. *See* Ex. C (indicating that, as of 2025, the Individual owed \$17,102.29 in unpaid property taxes).

C. Status of the Individual's Tax Obligations

Based on the information provided by the Individual at the hearing, I conclude that he has neither filed personal income tax returns nor paid personal income taxes for tax years 2012, 2013, 2014, 2015, 2016, 2017, 2018, or 2019. Tr. at 40–44 (testifying that tax returns for these years were either unfiled or that the status of the returns was unknown to him and that he had not paid personal income taxes for any of the years); *see also* Tr. at 24, 44 (testimony of the Individual and his daughter that, with the daughter's assistance, the Individual electronically filed his personal income tax returns for 2024); *id.* at 29 (testimony of the Individual's daughter that she was attempting to assist the Individual in setting up a payment plan but that the Individual was not on a payment plan as of the date of the hearing). The Bookkeeper prepared federal personal income tax returns for the Individual for tax years 2012, 2013, 2014, and 2024. Ex. D; Ex. E; Ex. G; Ex. H; Ex. I. Those tax returns indicate that the Individual owes over \$7,000 in federal personal income taxes for the four tax years. Ex. E at 2; Ex. G at 2; Ex. H at 2; Ex. I at 6; *see also* Tr. at 29 (Individual's daughter estimating that he owed \$6,000 in unpaid personal income taxes for the 2023 tax year). However, as the Individual did not present any evidence of having filed the tax returns with the IRS or of the IRS having processed and approved the Individual's calculation of his tax obligations, I cannot conclude definitively how much the Individual owes in unpaid taxes for those tax years. Moreover, the Individual admitted in his testimony that he does not know his total unpaid tax obligations as the Bookkeeper has yet to prepare numerous tax returns for the Individual. Tr. at 56.

Regarding the Individual's property taxes, the Individual claimed to have fully resolved his unpaid local property taxes. *Id.* at 58–59. However, the Individual provided no evidence of having done so and the documentation of his property tax obligations that he submitted into evidence showed an unpaid balance of \$17,102.29 as of the 2025 tax year. Ex. C. The Individual denied knowledge of the status of his unpaid payroll taxes. Tr. at 65.

The Individual testified that he had taken a distribution of \$25,000 from a retirement account with the intention of using it to satisfy his tax obligations. *Id.* at 41. According to the Individual, he was

“waiting to see what the outcome [of the hearing] is” and would then “pay to what was going to benefit [him in] keeping [his] job” *Id.* at 53.

D. Individual’s Knowledge of His Failure to Meet His Tax Obligations

The Individual claimed that his wife told him that the taxes were “completed, and [the Bookkeeper] took care of that” prior to his receiving access authorization and that he never suspected otherwise because he received access authorization. *Id.* at 45–46. According to the Individual, he was unaware of his unfiled personal income tax returns and the extent of his financial distress until after his wife’s disappearance when he and his daughter reviewed emails and saw communications related to the unpaid taxes. *Id.* at 45; *see also id.* at 27–28 (corroborating testimony from the Individual’s daughter). The Individual further claimed that his wife had completed the responses to the LOIs, signed them in his name, and returned the responses to the LSO, and that he did not recall whether she had consulted him about the responses before doing so. *Id.* at 38–39; *see also id.* at 9–10 (making these claims in his objections to the LSO’s exhibits).

Records of the adjudication of the Individual’s eligibility for access authorization indicate that he spoke with a representative of the LSO in February 2025 concerning the Second LOI and that he said “he will be replying [to the Second LOI] as soon as he can.” Ex. 9, Attachment (Att.) 1. The records also show that the response to the Second LOI was submitted from an email account containing the Individual’s full name. Ex. 9, Att. 13. Considering that the Individual spoke to a representative of the LSO about the Second LOI and that the response to the Second LOI was sent from an email account attributable to the Individual, I find that there is no basis to conclude that the Individual’s wife sent the response to the Second LOI without the Individual’s knowledge.

V. ANALYSIS

Conditions that could mitigate security concerns 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 good 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 predatory 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 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.

The Individual's failure to meet his tax obligations is longstanding and ongoing. The Individual asserted that his wife managed the family's financial matters, including filing tax returns and paying taxes, that she misled him as to having resolved the tax issues after his interview with the investigator, and that her conduct and subsequent disappearance constituted unusual circumstances. As an initial matter, the Individual was made aware during the investigation of his eligibility for access authorization that he was not in compliance with his personal income tax obligations for numerous tax years in addition to his longstanding payroll tax issues. Assuming that the Individual's wife was responsible for financial matters as the Individual claims, he must have been aware that she was not carrying out those responsibilities diligently at that time. Thus, if the Individual was made aware during the investigation that his wife was not filing tax returns as required, it would not be an unusual circumstance for her to continue to fail to file tax returns after the investigation, and it would have been unreasonable and an exercise of poor judgment for the Individual to have continued to defer management of the family's taxes to his wife without any involvement on his part. Moreover, considering the Individual's statements to the investigator that he was working with the Bookkeeper on his personal income tax returns and his documented phone conversation with a representative of the LSO in February 2025 concerning the Second LOI, I do not credit the Individual's claim that he was entirely unaware of his tax situation until after his wife's disappearance as he claims. For these reasons, I find the first mitigating condition inapplicable. *Id.* at ¶ 20(a).

The Individual's payroll tax noncompliance may have been attributable to conditions beyond his control at one time, though he brought forth no evidence to substantiate that his inability to meet his payroll tax obligations was due to the Great Recession as he claimed. Even if he had, it is apparent that the Individual has not acted reasonably under the circumstances given that over fifteen years elapsed without the Individual resolving the situation and he is not on a payment plan to resolve the unpaid taxes even now. As to his personal income tax returns, it was completely within the Individual's control to be knowledgeable about his financial situation and ensure that his tax returns were timely filed annually. That the Individual might have chosen to defer this responsibility to his wife, despite knowing that tax returns had not been filed as required in the past, was not a situation beyond his control. Thus, the second mitigating condition is inapplicable. *Id.* at ¶ 20(b).

The third, fourth, fifth, and sixth mitigating conditions are irrelevant to the facts of this case because the Individual does not claim to have pursued financial counseling, the LSO did not allege that the Individual owed delinquent private debts, the Individual does not have delinquent private

debts that he disputes that he owes, and the LSO did not allege that the Individual displayed unexplained affluence. *Id.* at ¶ 20(c)–(f).

While the Individual's Bookkeeper prepared some tax returns for him, the Individual does not claim to have filed all of his tax returns as required and has not produced IRS tax transcripts or other acceptable evidence to show that he has filed any of the unfiled tax returns identified by the LSO in the SSC. Moreover, the Individual does not claim to have resolved his unpaid taxes, or even to know the total amount of unpaid taxes he owes, and has not produced any evidence of having made any progress to pay his unpaid taxes. Accordingly, I find the seventh mitigating condition inapplicable. *Id.* at ¶ 20(g).

For the aforementioned reasons, none of the mitigating conditions are applicable to the facts of this case. Accordingly, I conclude that the Individual has not 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 not brought forth sufficient evidence to fully resolve the security concerns asserted by the LSO. Accordingly, I have determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals