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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: January 29, 2025) Case No.: PSH-25-0146
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Issued: March 4, 2026

Administrative Judge Decision

Erin C. Weinstock, 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.”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 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 5.² In August 2024, the Individual completed a Questionnaire for National Security Positions (QNSP). Ex. 6. In the QNSP, the Individual disclosed that he had not filed his State A tax returns or federal tax returns from 2017 to 2023. *Id.* at 55. As a result of the Individual’s disclosures, the Local Security Office (LSO) issued the Individual a Letter of Interrogatory (LOI), which the Individual completed in March 2025. 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

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.

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 eight exhibits (Ex. 1–8). The Individual submitted eleven exhibits (Ex. A–K). The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-25-0146 (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 State A tax returns or federal tax returns from 2017 to 2023. Ex. 1 at 5. The information cited by the LSO justifies its invocation of Guideline F. *See* Adjudicative Guidelines at ¶ 19(f) (indicating that “failure to file . . . annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required” may raise a security concern under 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 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 2017, the Individual was nineteen years old. Tr. at 9. That year, his mother prepared and filed state and federal tax returns for him. *Id.* at 10. To support his testimony that his 2017 tax returns had been timely filed, the Individual provided a signed and dated copy of his federal tax return from 2017 and an unsigned copy of his State B tax return.³ Ex. J (signed and dated federal tax return); Ex. K (unsigned State B tax return). The Individual was not aware that his mother had filed these tax returns when he filled out his QNSP, but when she passed away in 2025, he found the documents in her files. Tr. at 10.

At the hearing, the Individual testified that he did not file his own tax returns from tax year 2018 to tax year 2023. *Id.* at 17. He believed that his mother had filed his tax returns because she was an accountant and had filed his tax returns with assistance from a tax preparer for tax years 2016 and 2017. *Id.* Around January of 2025, the Individual's mother became ill, and she told him that she had not filed his tax returns after tax year 2017 when the tax preparer who had been assisting her passed away. *Id.* at 17, 25. He testified that after learning his mother had not filed his tax returns, he began to take steps to find out how to file for all of the missing years on his own. *Id.* at 17.

However, the explanation provided in the Individual's August 2024 QNSP is inconsistent with the testimony that he did not learn that his taxes had not been filed until January 2025. In his QNSP, the Individual stated that he had not filed his tax returns since 2017 because his family's "tax guy" had passed away and the family was "working on finding a tax guy to file [their] taxes from 2017-present." Ex. 6 at 54.

The Individual testified that when he learned his taxes had not been filed, he asked his coworkers about filing tax returns, and they provided him with information for a free tax filing service. Tr. at 17–18. He said that he filed his State A tax returns for 2018 through 2022 in July or August of 2025. *Id.* at 16. The Individual used that service to file some of his older tax returns and hired a tax preparer to file his tax returns for 2023 and 2024. *Id.* at 18.

To support his claims that he had filed his tax returns, the Individual provided printouts of his federal and State A tax returns for 2018, 2019, 2020, 2021, and 2022. Ex. A; Ex. B; Ex. C; Ex. D; Ex. I. The Individual also submitted a federal tax transcript for tax year 2020, which showed that specific return had been received by the IRS in October 2025 and processed in December 2025. Ex. H. The Individual testified that this tax transcript is the only one that he was able to obtain from the IRS. Tr. at 13. The Individual stated that it is his understanding, based on his federal tax returns and the federal tax transcript, that he owes the IRS approximately \$7,000 for the federal tax returns that have been processed up to when the tax transcript was made. *Id.* at 13–14. He provided two letters from his tax preparer stating that his federal and State A tax returns for tax years 2023 and 2024 were filed on December 30, 2025. Ex. G. These letters indicate that between those two years, he owes the federal government approximately \$5,000 and the State A government approximately \$70. *Id.*

³ According to his QNSP, the Individual has been a resident of State A since at least 2014. Ex. 6 at 31. His QNSP also states that in 2017 he was employed in State A. *Id.* at 35. It is unclear why he filed a state tax return in State B for tax year 2017. As the Individual did not submit the copies of his 2017 tax returns until after his hearing, I was unable to receive testimony from the Individual regarding the reason for this discrepancy.

The Individual testified that he has not paid the balance that he owes on his federal taxes because when he spoke to the IRS, he was told that he could not enter into a payment plan until all of his federal tax returns were processed. Tr. at 25–26. The Individual stated that he had not paid the balance for his State A tax returns because he was “focusing on the federal,” but he could pay the State A amount “by the end of the week.” *Id.* at 23. The Individual intends to pay \$100 a week towards what he owes the federal government until he can start an official payment plan. *Id.* at 14; Ex. F (email showing confirmation of one payment on February 9, 2026).

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.

The Individual failed to file both his state and federal tax returns in a timely manner for at least seven tax years. As this repeated failure to file was ongoing until at least December 2025, I cannot

say that the behavior happened so long ago or was infrequent. I also cannot say that the circumstances of the Individual's failure to file occurred under such circumstances that it does not cast doubt on his current reliability, trustworthiness, or judgment because of his inconsistent explanations for his failure to file his tax returns. While the Individual was only nineteen years old when he first failed to file his tax returns, this behavior continued for nearly eight years, making the conduct too extensive and too serious to be mitigated by his youth alone. *See generally* 10 C.F.R. 710.7(c) (explaining that DOE officials should consider "the age and maturity of the individual at the time of the conduct," but also the "nature, extent, and seriousness of the conduct"). Therefore, the Individual has not mitigated the security concerns pursuant to mitigating factor (a).

The Individual has not mitigated the security concerns pursuant to mitigating factor (b) because he has not shown that his failure to file his state and federal tax returns was beyond his control. While the Individual was a young adult when his failure to file his tax returns began, the continued failure to file his tax returns or to even confirm that they were being filed does not reflect well on his trustworthiness and reliability. Further, I cannot say that the Individual acted responsibly under the circumstances because when he completed his August 2024 QNSP, he stated that he had not filed his state or federal income tax returns from 2017 to the present, yet he did not actually file any of his state or federal income tax returns until about a year later in July or August 2025. Even assuming that the Individual did not learn that his tax returns had not been filed until shortly before he completed his QNSP, I cannot say that taking nearly one full year to begin to file tax returns was responsible behavior under the circumstances.

The Individual has not alleged that he is receiving or has received financial counseling. Therefore, mitigating factor (c) does not apply here.

Mitigating factors (d) and (e) do not apply here because there is no allegation that the Individual has any creditors or past-due debts. Similarly, mitigating factor (f) does not apply here because there is no allegation that the Individual has demonstrated any undue affluence.

The Individual provided copies of his federal and state tax returns from tax year 2017 to 2022. However, he did not provide any evidence that showed that the majority of his tax returns had been filed or even mailed to the IRS or appropriate state tax authorities. Furthermore, while the 2020 tax transcript that the Individual provided showed that he had filed his federal taxes for that year, it also showed that he owed approximately \$7,000 to the federal government for that year alone. The letter sent to the Individual by his tax preparer indicated that the Individual owed an additional \$5,000 to the federal government, which he had not even begun to pay at the time of the hearing. Though I understand that the IRS would not allow him to enter a payment plan until it had processed all of his late returns, the reason that the IRS has not processed all of the Individual's returns is his delay in filing them. Additionally, the Individual had not made arrangements to pay off his state tax debt, even though the amount owed is nominal. Therefore, the Individual has not resolved the security concerns pursuant to mitigating factor (g).

Accordingly, I find 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 resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined 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.

Erin C. Weinstock
Administrative Judge
Office of Hearings and Appeals