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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: August 20, 2025)	Case No.: PSH-25-0191
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)	

Issued: May 1, 2026

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 should not be granted access authorization.

I. BACKGROUND

On January 2, 2024, the Individual completed and signed a Questionnaire for National Security Positions (QNSP) in connection with seeking access authorization. Exhibit (Ex.) 7 at 102.² In the QNSP, the Individual disclosed that he had not filed personal income tax returns as required for tax years 2019 and 2021. *Id.* at 96. The Individual additionally disclosed that he owed a \$2,500 debt that had been turned over to a collection agency. *Id.* at 98. He checked boxes marked "No" in response to questions asking whether, in the prior seven years, he had failed to file tax returns or pay taxes, or had fallen into delinquency involving routine financial accounts, in any instances besides those he disclosed. *Id.* at 96, 98–99. The Individual also checked a box marked "No" in response to a question concerning whether he had "EVER been charged with an offense involving alcohol or drugs." *Id.* at 92 (emphasis in original).

As part of a background investigation into the Individual's eligibility for access authorization, the Office of Personnel Management obtained a credit report (Credit Report) for the Individual in

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.

January 2024. Ex. 5. The Credit Report revealed numerous delinquent debts from the prior seven years that had been referred to collections or charged off by creditors but which the Individual had failed to disclose on the QNSP. *Id.* at 26–27. The Credit Report additionally revealed that the Individual had a vehicle repossessed by a lender and that three other debts owed by the Individual had fallen one hundred twenty or more days past due, none of which information had been disclosed by the Individual on the QNSP. *Id.* at 28–29. A review of criminal records as part of the background investigation additionally revealed that the Individual had been arrested and charged with Driving Under the Influence (DUI) in 2011 and 2022. Ex. 9 at 207–08.

The Individual was interviewed by an investigator on January 18, 2024, as part of the background investigation. *Id.* at 178. During the interview, the Individual admitted that he had not filed personal income tax returns for tax years 2019, 2020, 2021, or 2022. *Id.* at 184. In June 2025, the local security office (LSO) issued the Individual a letter of interrogatory (LOI) concerning the security concerns presented by the information in the QNSP and uncovered during the investigation. Ex. 6. In response to a question on the LOI concerning whether he had filed his 2023 and 2024 personal income tax returns, the Individual stated that he “plan[ned] on filing all [his] taxes simultaneously.” *Id.* at 36.

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 7–9. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E and F of the Adjudicative Guidelines. *Id.* at 5–6.

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 in April 2026. The LSO submitted nine exhibits (Ex. 1–9). The Individual submitted three exhibits (Ex. A–C). The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-25-0191 (Tr.) at 3, 11. The LSO did not call any witnesses to testify.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as the first basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 5–6. “Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” Adjudicative Guidelines at ¶ 15. The SSC cited the Individual’s failure to disclose on the QNSP: (1) having been arrested and charged with DUI on two occasions; (2) having failed to file personal income tax returns for tax years 2020 and 2022; and (3) five delinquent financial accounts referred to collections and/or charged off by the creditor and four financial accounts on which the Individual fell one hundred twenty or more days behind on payments, including an auto loan that resulted in the repossession of the vehicle. Ex. 1 at 5–6. The

LSO's allegations that the Individual deliberately omitted, concealed, or falsified information on the QNSP justify its invocation of Guideline E. Adjudicative Guidelines at ¶ 16(a).

The LSO also cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as another basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 6. "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 cited the Individual's failure to file Federal personal income tax returns or pay Federal personal income taxes for tax years 2019 through 2024 and six delinquent debts on which the LSO estimated that the Individual owed a cumulative \$28,516. Ex. 1 at 6-7. The LSO's allegations that the Individual demonstrated an inability or unwillingness to satisfy debts, demonstrated a history of not meeting financial obligations, and failed to file Federal personal income tax returns or pay Federal personal income taxes as required justify its invocation of Guideline F. Adjudicative Guidelines at ¶ 19(a)-(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" 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 Arrests for DUI

In 2011, while serving in a branch of the U.S. military in a foreign country, the Individual was arrested and charged with DUI. Ex. 9 at 209. The Individual was subjected to military discipline as a result of the DUI. *Id.* at 183, 209–11.

The Individual was arrested and charged with DUI again in 2022.³ *Id.* at 212–13. The Individual pleaded guilty to a reduced charge of Reckless Driving to resolve the 2022 DUI charge. *Id.* at 213.

In his 2024 interview with an investigator, the Individual admitted that he was charged with DUI in 2022. *Id.* at 183. The Individual claimed to the investigator that another driver “ran [him] off the side of the road” while he was driving, a friend “came and picked [him] up,” and he was arrested and charged with DUI when he later returned to the vehicle to wait for a tow truck. *Id.* At the hearing, the Individual claimed that he “misspoke” to the investigator, that he was a passenger in a vehicle driven by a friend when the vehicle was run off the road, the friend went “to get help,” and the Individual was arrested and ultimately convicted of reckless driving despite having only been a passenger. *Id.* at 60–63.

B. Individual's Divorce and Financial Difficulties

At some point after 2017, a creditor charged off a credit card debt on which the Individual owed \$2,117. Tr. at 39; Ex. 5 at 27. A notation on the Credit Report obtained during the background investigation of the Individual indicates that the Individual had fallen one hundred fifty days past due on payments on the credit card prior to it being charged off by the creditor. Ex. 5 at 27.

In September 2019, the Individual and his wife, with whom he has several children, divorced. Ex. 9 at 151–52, 157. In 2020, the Individual attempted to file a Federal personal income tax return for the 2019 tax year in which he sought to claim the children he shared with his ex-wife as dependents. *Id.* at 184. However, the IRS rejected the tax return because the Individual's ex-wife had already filed a personal income tax return in which she claimed the children as dependents. *Id.* The Individual subsequently failed to file Federal personal income tax returns for tax years 2020 through 2024 due to “confusion” as to how to proceed.⁴ *Id.*; Ex. 6 at 36; Tr. at 18.

³ In his hearing testimony, the Individual represented that he had received “a ticket for reckless driving” and denied that he was charged with DUI. Tr. at 13. He subsequently modified his testimony to indicate that he was charged with “suspicion of DUI” only to then reverse himself and testify that he “was not charged with a DUI or a suspected DUI” and then reverse himself again to indicate that “Yes. It was suspicion . . . of DUI.” *Id.* at 41–42. Considering that the law enforcement records obtained during the background investigation indicated that the Individual was charged with DUI, and that the Individual admitted to the investigator that he had been charged with DUI in 2022, I do not credit his inconsistent hearing claims. *Infra* pp. 6–7.

⁴ At the hearing, the Individual offered an alternate explanation for his failure to timely file tax returns involving his ex-wife having “swapped the . . . direct deposit information” associated with his IRS account resulting in the Individual's “taxes and stimulus checks [being] stolen” and expressed that he chose not to file tax returns in subsequent years because he feared that she would, somehow, intercept tax refunds again. Tr. at 17, 19. I find it highly dubious that the Individual's ex-wife possessed the Individual's IRS log-in credentials when the Individual sought to file his 2019 Federal personal income tax return in 2020, many months after their divorce was finalized, much less years after

The Individual took out two personal loans to pay legal fees associated with his divorce. Ex. 5 at 26–27; Ex. 9 at 184–85. In May 2020, the Individual was terminated from his job for failing to comply with his employer’s time and attendance policies. Ex. 9 at 141–42; *see also id.* at 179 (Individual alleging to an investigator that he was late to work on numerous occasions due to his ex-wife being late to custody exchanges of their children, which prevented him from dropping the children off at daycare in time to arrive at work at his start time). The Individual was unemployed for two months before he obtained employment with the DOE contractor. *Id.* at 140–41.

In 2021, one of the two personal loans the Individual took out in connection with his divorce, on which he owed \$3,199, was charged off by the creditor. Ex. 5 at 26; Ex. 9 at 184. Later that year, the Individual fell one hundred twenty days past due on his mortgage payments. Ex. 5 at 28; Ex. 9 at 186; *see also* Ex. 9 at 186 (Individual representing to an investigator that he stopped making payments on the mortgage pursuant to the forbearance provisions of the COVID-19 Relief Act). In 2022, the Individual came to terms with his mortgage lender to bring his account current. Ex. 9 at 186; *see also* Ex. 5 at 28 (indicating that the Individual paid his mortgage as agreed as of the January 2024 Credit Report).

In 2022, a lender repossessed a vehicle from the Individual after the Individual fell one hundred twenty days past due on payments. Ex. 5 at 28; *see also* Ex. 9 at 186 (Individual claiming to an investigator that his ex-wife had communicated with the lender and directed it to repossess the vehicle to resolve the delinquency without the Individual’s consent). In 2023, a \$668 debt owed by the Individual to a telecommunication company, a \$2,032 personal loan the Individual incurred in connection with his divorce, and an unidentified third debt on which the Individual owed \$3,198 were referred for collection. Ex. 5 at 27; *see also* Ex. 9 at 185 (Individual indicating to the investigator that he did not know the source of the \$3,198 debt). At some point after 2021, an auto loan for a vehicle possessed by the Individual’s ex-wife, on which the Individual was a co-borrower, was charged off by the creditor.⁵ Ex. 5 at 26; Ex. 9 at 185 (reflecting that the Individual told an investigator that the vehicle was involved in an accident in 2021 and was “declared a total loss” prior to falling into delinquency). The Individual additionally fell one hundred twenty days behind on payments for a water softener installed in his residence, and a credit card, on which the Individual owed \$128, was closed by the creditor after the Individual fell more than one hundred twenty days behind on payments. Ex. 5 at 28–29; Ex. 9 at 186–87; *see also* Ex. 6 at 52 (attributing his delinquency on the debt for the water softener to believing his payments were “on auto-pay” and only realizing that the payments were not being made when he received notice after more than one hundred twenty days of non-payment).

C. The QNSP and Background Investigation

their divorce when the Individual had ample opportunity to change the credentials before filing tax returns for tax years 2020 through 2024.

⁵ In his hearing testimony, the Individual represented that this debt fell into delinquency in 2019 or 2020. Tr. at 37. Considering that his recollection of the delinquency was fresher when he was interviewed by an investigator in 2024, I credit that account which indicated that the delinquency occurred after the 2021 accident. However, even if the debt fell into delinquency earlier, it would make no difference to my determination in this case.

The Individual signed and submitted the QNSP on January 2, 2024. Ex. 7 at 102. As part of completing the QNSP, the Individual certified that the contents thereof were “true, complete, and correct to the best of [his] knowledge and belief and [were] made in good faith.” *Id.* The Individual checked a box marked “No” on the QNSP in response to a question asking whether he had “EVER been charged with an offense involving alcohol or drugs” and did not disclose either of his DUI charges. *Id.* at 92 (emphasis in original).

With respect to his tax filing history, the Individual disclosed that he had not filed Federal personal income tax returns for the 2019 and 2021 tax years or paid Federal personal income taxes for the 2019 tax year. *Id.* at 96. The Individual checked a box marked “No” in response to a question concerning whether he had any other instances of having failed to file tax returns or pay taxes as required and did not disclose his failure to file tax returns for the 2020 and 2022 tax years. *Id.* The Individual represented on the QNSP that he would “fil[e] all [his] taxes this month 12/23.” *Id.*

Regarding delinquent financial accounts, the Individual disclosed one of his personal loans and indicated that it was referred to collections in 2021.⁶ *Id.* at 98. On the QNSP, the Individual attributed the cause of the delinquency to “COVID” and indicated that he was “trying to find out who is in charge of payments for the loan.” *Id.* The Individual checked a box marked “No” in response to a question asking, other than the delinquent debt he disclosed, whether he had any possessions or property repossessed, had any debts turned over to a collection agency, had any account suspended, charged off, or cancelled, for failure to pay, or had fallen over one hundred twenty days delinquent on any debt. *Id.* at 99.

The Credit Report revealed that the Individual had failed to disclose numerous financial delinquencies he was required to report on the QNSP. Ex. 5 at 26–29. Additionally, law enforcement records obtained as part of the background investigation revealed the DUI charges that the Individual had failed to disclose on the QNSP. Ex. 9 at 207–11.

On January 18, 2024, the Individual met with an investigator for an interview as part of the background investigation. *Id.* at 178. The Individual denied having ever been charged with an alcohol or drug related offense, after which the investigator confronted him with his two DUI charges. *Id.* at 182–83. The Individual acknowledged his 2011 DUI charge and claimed that he did not report it on the QNSP because he had forgotten about it. *Id.* at 182; *but see* Tr. at 13 (claiming at the hearing that he had omitted the 2011 DUI charge from the QNSP because he believed “10 years was the cutoff for [disclosing] information” and he “received a nonjudicial punishment . . . [not] a DUI or something you [] receive in the [United] States”). Regarding the 2022 DUI charge, the Individual represented that, because the charge had been reduced to Reckless Driving, he was “unsure how to list” it on the QNSP and therefore did not disclose it. Ex. 9 at 183. At the hearing

⁶ Although the name of the creditor provided by the Individual on the QNSP does not correspond to the name of any of the Individual’s creditors on the Credit Report, it is sufficiently clear from the amount of the debt the Individual reported on the QNSP, the date in which the Individual represented that the debt was referred to collections, and the Individual’s subsequent statements to the investigator that the Individual was disclosing one of the personal loans he took out following his divorce. *See* Ex. 5 at 26 (indicating that one of the personal loans had a principal balance of \$2,500 and was charged off by the creditor in 2021); Ex. 7 at 98 (Individual’s disclosure on the QNSP that the loan had a balance of \$2,500 and fell into delinquency in 2021); Ex. 9 at 184–85 (Individual’s statements to the investigator indicating that he was trying to disclose one of the personal loans).

concerning this matter, the Individual changed his account and claimed that he had never been charged with DUI in February 2022. Tr. at 13; *supra* note 3.

The Individual volunteered to the investigator that he had not filed personal income tax returns for tax years 2019 through 2022 and represented that he omitted his failure to file a personal income tax return for 2022 from the QNSP in error. Ex. 9 at 184; *see also* Tr. at 47–48 (testifying that he intended to disclose all of his unfiled tax returns and that his failure to do so was “a mistake”). The Individual attributed his failure to file a Federal personal income tax return for tax year 2019 to his return being rejected by the IRS and “confusion in how to file taxes.” Ex. 9 at 184. The Individual told the investigator that he was “working with a tax professional” and would file his tax returns in February 2024. *Id.*

Regarding his financial delinquencies, the Individual verified that he owed the personal loan debt that he listed on the QNSP and represented that he was attempting to identify which institution owned the debt so that he could make arrangements to pay. *Id.* The Individual denied that he had any other financial delinquencies he was required to report on the QNSP and was then confronted by the investigator with the information from the Credit Report. *Id.* The Individual indicated that he did not believe that he was required to disclose the auto loan debt for which he was a co-borrower with his ex-wife due to his ex-wife possessing the vehicle. *Id.* at 185. He denied knowledge of the \$3,198 debt and speculated that it was the personal loan he had disclosed on the QNSP, denied knowledge of the credit card debt of \$121, and represented that he had not disclosed the debt to the telecommunications company because he did not believe that he owed the debt. *Id.* at 185–87. The Individual acknowledged the other delinquent debts and indicated that he omitted them from the QNSP due to forgetting about them. *Id.*; *see also* Tr. at 56–57 (attributing his failure to disclose his delinquent debts to being “ill prepared” and not knowledgeable about his debts rather than an intent to deceive). The Individual represented to the investigator that he was in the process of selling his home and expected to be able to “clear all of his debt” with the proceeds. Ex. 9 at 187.

D. Individual’s Subsequent Efforts to Address His Financial Difficulties

In June 2025, over fifteen months after the Individual’s interview with the investigator, the LSO issued the Individual the LOI. Ex. 6. In his June 12, 2025, response, the Individual admitted that he had not filed personal income tax returns for tax years 2019 through 2024 and that he did not know his outstanding tax liability. *Id.* at 35–36. The Individual represented that he had retained tax professionals to prepare and file his tax returns. *Id.* at 35.

Regarding his delinquent debts, the Individual asserted that he had hired a for-profit credit repair company to dispute the debts listed on the Credit Report as having been referred to collections or charged off by the creditor, with the exception of the debt to the telecommunications company which he represented that he had paid in full. *Id.* at 37–46. The Individual also represented that he had paid the debt for the water softener and the credit card in full. *Id.* at 47–49. The Individual attributed his financial issues to his divorce and represented that his financial situation had since stabilized. *Id.* at 50.

At the hearing, the Individual testified that, in approximately October 2025, he had filed Federal personal income tax returns for tax years 2019 through 2024. Tr. at 11, 16. The Individual testified that at least two of his tax returns had not been processed by the IRS and that he did not know how much he owed in unpaid Federal personal income taxes but speculated that the amount was “in the thousands.” *Id.* at 22–23 (indicating that the IRS had not yet confirmed receipt of his 2019 tax return and that his 2022 tax return was “pending” and not yet accepted by the IRS).

Regarding his delinquent debts, the Individual indicated that he was no longer working with the credit repair company and had retained a financial professional to help him negotiate with his creditors and dispute derogatory entries on his credit reports. *Id.* at 14. The Individual testified that he had paid the telecommunications debt but provided no evidence of having done so. *Id.* at 49. The Individual claimed to have disputed the auto loan debt for \$15,470 but provided no evidence of having done so and admitted that he was a co-signer on the debt with his ex-wife who he asserted “should be settling that [debt].” *Id.* at 25–26. The Individual claimed that he was in negotiations to settle another debt reflected on the Credit Report for \$3,199 but provided no evidence of the negotiations. *Id.* at 28. Other debts the Individual acknowledged and expressed the intention to pay but admitted he had not taken any steps to resolve as of the hearing date. *Id.* at 29–30, 32–33.

According to the Individual, his net pay is at least \$2,700 every two weeks and he receives \$4,100 monthly in disability payments from the U.S. Department of Veterans Affairs (VA). *Id.* at 34; *see id.* at 68 (indicating that he was receiving VA benefits at least as early as 2020). He does not dispute that he has the financial resources to pay his debts; however, as of the date of the hearing, he estimated that he had only about \$4,000 in his bank account. *Id.* at 34–35. The Individual asserted that legal fees associated with child custody disputes with his ex-wife and the cost of paying utility bills for two residences in 2024 when he was seeking to sell his primary residence had impacted his ability to address his delinquent debts. *Id.* at 71–72; *but see id.* at 35 (indicating that he sold his home in April 2024 and received approximately \$50,000 in profit).

V. ANALYSIS

A. Guideline E

Conditions that could mitigate security concerns under Guideline E include:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment;

- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) the information was unsubstantiated or from a source of questionable reliability; and
- (g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

The Individual denied that he intentionally omitted derogatory information from the QNSP, instead attributing his omissions to misunderstanding what he was expected to disclose regarding his DUI arrests and negligently omitting financial information due to a lack of preparedness. The Individual's disclosure of his failure to file personal income tax returns for 2019 and 2021, but omission of his failure to file for 2020 and 2022, seems to fit this explanation; it seems improbable that a rational person seeking to intentionally mislead the LSO would disclose half of the years in which he failed to file personal income tax returns.

On the other hand, the Individual's explanations for his omission of his DUIs from the QNSP were implausible and suggestive of bad faith. The Individual's claim that he omitted the 2022 DUI because he was not charged with DUI is directly contradicted by both the criminal records obtained during the background investigation and the Individual's statements to the investigator. Moreover, the Individual's attempts during the hearing to recharacterize the circumstances of his arrest, denying even that he was driving the vehicle in question during the accident that precipitated his arrest, directly contradicts what he told the investigator. Further, the Individual's claim that he did not believe he was required to disclose his 2011 DUI is unreasonable in light of the plain, emphatic language of the QNSP that any alcohol-related charge, "EVER", must be disclosed and his claim that he forgot the charge is undercut by his various, conflicting explanations for why he did not disclose the charge on the QNSP. With respect to the Individual's delinquent debts, I find it dubious that the Individual remembered a single delinquent debt from years prior to completing the QNSP but forgot or negligently omitted numerous delinquent debts that were more recent and/or larger. Unlike the Individual's tax issues, where he disclosed half of the unfiled tax returns and there was no distinction between the severity of the concerns presented by the unfiled tax returns, the Individual's disclosure of one of his older and smaller delinquent debts, while concealing more recent and much larger debts, causes me to suspect that he intentionally minimized the extent of his financial delinquencies when completing the QNSP rather than negligently omitted debts. At a minimum, disclosing only a single delinquent debt was not indicative of good faith considering the Individual's testimony as to the extent of his financial difficulties which demonstrates that he was aware he had much more extensive financial problems.

Considering the foregoing, I find it more likely that the Individual intentionally omitted some information from the QNSP than that all of his omissions were unintentional.

Turning to the mitigating conditions, the Individual disclosed his failure to file personal income tax returns as required for tax years 2020 and 2022 to the investigator before being confronted with the facts. Accordingly, I find that the Individual's omission of that information from the QNSP is resolved pursuant to the first mitigating condition. *Id.* at ¶ 17(a).

However, the Individual was confronted by the investigator with his DUIs and undisclosed delinquent debts. Thus, these omissions from the QNSP are not resolved pursuant to the first mitigating condition. *Id.*

The second mitigating condition is irrelevant to the facts of this case because the Individual did not allege that he relied on the advice of counsel or another person with professional responsibilities for advising him in completing the QNSP. *Id.* at ¶ 17(b).

The Individual's omissions on the QNSP were significant; indeed, had the LSO relied on the Individual's assertions without further investigation it would have failed to identify the Individual's lengthy history of failing to satisfy his debts that makes up a significant portion of the allegations at issue in this proceeding under Guideline F. The Individual has not alleged that the omissions occurred under unusual circumstances, and the Individual continued to offer implausible explanations for his conduct, particularly with respect to the omission of the DUIs, during the hearing. For these reasons, I find the third mitigating condition inapplicable. *Id.* at ¶ 17(c).

The remaining mitigating conditions are irrelevant to the facts of this case because the Individual does not claim to have received counseling related to untruthfulness, the LSO did not allege that the Individual engaged in conduct that placed him at special risk of exploitation, manipulation, or duress, there is no dispute that the Individual omitted the alleged information from the QNSP, and the LSO did not allege that the Individual associated with persons involved in criminal activity. *Id.* at ¶ 17(d)–(g).

For the aforementioned reasons, I find that none of the mitigating conditions are applicable to the facts of this case. Accordingly, the Individual has not resolved the security concerns asserted by the LSO under Guideline E.

B. Guideline F

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.

By the Individual's own admission, his failure to satisfy his financial obligations is ongoing. Moreover, the Individual's failure to meet financial obligations has persisted for years while he has been steadily employed by a DOE contractor. Considering that the Individual has made minimal, if any, progress, I cannot conclude that his financial difficulties are unlikely to recur or do not cast doubt on his reliability, trustworthiness, or judgment. *Id.* at ¶ 20(a).

The Individual's divorce was an event beyond his control that appears to have precipitated his financial difficulties. However, the Individual has not shown that he has acted responsibly under the circumstances. The Individual has been continuously employed by the DOE contractor for nearly six years and receives significant VA disability benefits. As the Individual did not provide financial records, it is impossible to meaningfully evaluate whether it would have been reasonable to expect the Individual to fully resolve his debts in this time. However, it would unquestionably have been reasonable to expect a person with the Individual's income to have entered into payment plans and made some progress towards resolving each of his delinquent debts during the multiple years since he submitted the QNSP. The fact that the Individual has not amply demonstrates that he did not act responsibly, and therefore that the second mitigating condition is inapplicable. *Id.* at ¶ 20(b).

The third mitigating condition is inapplicable because the Individual claimed to have engaged for-profit financial service providers to help him challenge debts and negotiate settlements rather than a reputable not-for-profit financial counseling service. Even if the Individual had represented that he was receiving financial counseling from a reputable source, there is insufficient information in the record concerning the nature and extent of the services for the third mitigating condition to be

applicable. Moreover, as described above, the Individual has not satisfied his delinquent debts or made sufficient progress for me to conclude that the problem is under control. *Id.* at ¶ 20(c).

The Individual has neither initiated nor adhered to good-faith efforts to resolve debts. While the Individual claimed that he has experienced difficulties identifying and contacting creditors, he might have had better success by this time if he had acted promptly to resolve his debts rather than delaying. The fourth mitigating condition is inapplicable. *Id.* at ¶ 20(d).

While the Individual alluded to having disputed some of his debts, he did not bring forth any evidence of having done so or of having a legitimate basis to do so. To the contrary, the Individual's characterization of his "disputes" suggests that they are based on his personal sense of what his ex-wife should be responsible for rather than a legitimate claim that he is not legally responsible for the debts. Accordingly, the fifth mitigating condition is inapplicable. *Id.* at ¶ 20(e).

The sixth mitigating condition is irrelevant to the facts of this case because the LSO did not allege that the Individual demonstrated unexplained affluence. *Id.* at ¶ 20(f).

The Individual claimed that he filed all required tax returns but admitted that two of them had not yet been accepted by the IRS. By his own admission he owes thousands of dollars in unpaid personal income taxes, he will not know the extent of his liability until some uncertain date in the future when the IRS computes his tax liability, and thus he has not made any arrangements to pay taxes or demonstrated compliance with those arrangements. I further note that, despite representing to an investigator that he would file his personal income tax returns in February 2024, the Individual delayed nearly two additional years before doing so. *See infra* p. 8. The Individual's procrastination and lack of urgency in addressing this matter both prevented him from bringing forward evidence that might have addressed the security concerns and aggravated the seriousness of the concerns presented by his lack of attention to his legal obligation to file tax returns and pay taxes. *See* 10 C.F.R. § 710.7(c) (requiring consideration of, among other things, "the circumstances surrounding the conduct," "the frequency and recency of the conduct," and "the likelihood of continuation or recurrence" in applying the mitigating conditions). For the aforementioned reasons, I find the seventh mitigating condition inapplicable. Adjudicative Guidelines at ¶ 20(g).

As the Individual's financial difficulties remain ongoing and he has taken minimal action to address them despite the apparent ability to do so, I find that none of the mitigating conditions are applicable. Accordingly, 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 Guidelines E and 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 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.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals