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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: September 27, 2019) Case No.: PSH-19-0057
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Issued: December 4, 2019

Administrative Judge Decision

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXX (hereinafter referred to as “the Individual”) to hold an access authorization¹ under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled “General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.” 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 that requested a security clearance on her behalf. In applying for her clearance, the Individual completed an Electronic Questionnaire for Investigations Processing (e-QIP) in December 2016. Ex 9. In response to one of the financial questions, the Individual indicated that she was currently over 120 days delinquent on her student loans. *Id.* at 45-46. Subsequently, the Local Security Office (LSO) asked her to complete a Letter of Interrogatory (LOI). Ex. 6. Due to unresolved security concerns, the LSO informed the Individual, in a Notification Letter dated August 23, 2019 (Notification Letter), that it possessed reliable information that created substantial doubt regarding her eligibility to hold a security clearance. In an attachment to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline F (Financial Considerations). Ex. 1.

Upon receipt of the Notification Letter, the Individual exercised her right under the Part 710 regulations by requesting an administrative review hearing. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I

¹ Access authorization is defined 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). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted ten numbered exhibits (Exhibits 1–10) into the record. The Individual tendered six exhibits (Exhibits A–F) and testified on her own behalf. The exhibits will be cited in this Decision as “Ex.” followed by the appropriate alphabetical or numeric designation. The hearing transcript in the case will be cited as “Tr.” followed by the relevant page number.

II. Regulatory Standard

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 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 err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), cert. denied, 499 U.S. 905 (1991) (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 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. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

III. Notification Letter and Associated Concerns

As previously mentioned, the Notification Letter included a statement of derogatory information that raised concerns about the Individual’s eligibility for access authorization. The information in the letter specifically cited Guideline F of the Adjudicative Guidelines. Guideline F addresses one’s “[f]ailure to live within one’s means, satisfy debts, and meet financial obligations.” Guideline F at ¶ 18. It is well established that failure or inability 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. *Id.* Among the conditions set forth in that guideline that could raise a disqualifying security concern are the inability to satisfy debts and an unwillingness to satisfy debts regardless of the ability to do so. Guideline F at ¶ 19(a), (b). In citing Guideline F, the LSO relied upon the Individual’s admissions in the LOI and the Individual’s credit report, indicating that the Individual had 10 collection accounts, totaling \$225,244, consisting of: (1) three medical debts, (2) two miscellaneous debts,² and (3) five student loan debts.

² As the nature of these debts is unascertainable based upon the name of the creditor, I have characterized them as miscellaneous.

Ex. 1. Additionally, the LSO cited that the Individual was 120 days past due on one of her student loans, carrying a balance of \$6,673. *Id.*

IV. Findings of Fact

I have carefully considered the totality of the record in reaching the findings of fact set forth below. At the hearing, the Individual presented only her own testimony.

A. Medical Debts

The Individual testified that two of the three medical debts listed on the summary of security concerns had been paid in full. Tr. at 28, 29; Ex. 2. She noted that she first became aware of these two debts upon seeing her credit report as part of the security clearance process; however, she did not know what these debts were. *Id.* As such, she disputed them on her credit report, but she ultimately decided to pay them off in full. *Id.*; Ex. 2. With regard to the one remaining medical debt, the Individual indicated that she “was unable to find any further information for it to be able to see who the creditor is to be able to satisfy that debt.” Tr. at 30; Ex. 2.

B. Miscellaneous Debts

The Individual testified that, with regard to the two miscellaneous debts, both had been paid in full. Tr. at 25-26; Ex. 2. She stated that she was unaware of these debts, and the first time she knew of these debts was upon receipt of the summary of security concerns. Tr. at 26-27.

C. Student Loan Debts

In her opening statement, the Individual indicated that when she graduated college, approximately 10 years ago, she came under financial hardship due to “overwhelming student loan debt.” Tr. at 7. The Individual testified that she had a difficult time finding a job after graduation but was able to delay the loan payments for six months. *Id.* at 14. Once she found a full time job, she then arranged to make modified payments on her student loans; however, she was only able to make those payments for approximately eight months before the modified payment agreement ended and the payments subsequently doubled. *Id.* She explained that, along with the payment amounts doubling, the interest rate on her loans increased as well. *Id.* at 24. The Individual estimated that she stopped paying on the loans approximately in 2013. *Id.* at 17. She testified that, once she realized that she would not be able to afford the loan payments, she filed for bankruptcy; however, due to the nature of the loans, they were not able to be discharged through the bankruptcy proceedings. *Id.* at 16.

The Individual testified that, although the summary of security concerns listed five student loan debts, she had, in fact, only obtained four student loans. *Id.* at 10. She stated that she did not know which of the student loan debts on the summary of security concerns was a duplicate. *Id.* At the hearing, she was unable to definitively match each of her four known student loans to the loans listed on the summary of security concerns. *See id.* at 11. The Individual noted she had contacted the original creditor, but the loans had been charged off, and the original creditor could no longer provide statements detailing her loans. *Id.* at 12. She further clarified that the amount that is now

being requested in collections is approximately twice that of the original student loan amounts, as the result of interest and fees. *Id.* at 11-12.

The Individual acknowledged that she had not contacted the debt collectors to determine the current amounts due, nor had she made any payment arrangements. *Id.* at 12-13. She stated that the “only type of payment arrangement [the debt collectors] were willing to accept...was two payment installments,” which totaled approximately \$80,000 each. *Id.* at 13. However, she noted that she never tried to send a partial payment in order to explore whether the debt collector would accept such a payment. *Id.* at 20.

Following the hearing, the Individual submitted additional information to help provide insight into the circumstances of her outstanding student loan debt. Based upon the information the Individual provided, it appears that items 1 and 5 on the summary of security concerns are duplicative of one another and represent the same loan. Ex. E. This is also true for items 3 and 4. *Id.* Despite this additional information, it is unclear as to exact amounts owed on the four student loans; however, the total indebtedness appears to be slightly under \$200,000. *Id.* The Individual does acknowledge that her last payment, on two of the loans, was made in February 2013, and the debts were charged off in December 2013. *Id.* With regard to a third loan, her last payment was made in April of 2011, and the account was charged off in March 2012. *Id.* The circumstances and payment history concerning the fourth loan are unknown.

V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the Individual presented at the hearing. In resolving the question of the Individual’s eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. After due deliberation, I have determined that the Individual has not sufficiently mitigated the security concerns noted by the LSO with regard to Guideline F. I cannot find that granting the Individual’s DOE security clearance will not endanger the common defense and security, and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). Therefore, I have determined that the Individual’s security clearance should not be granted. The specific findings that I make in support of this decision are discussed below.

An inability to satisfy one’s debts or an individual’s unwillingness to do so regardless of his or her ability may raise a security concern that could serve as a disqualifier to receiving a security clearance. Guideline F at ¶ 19(a)(b). An individual may be able to mitigate the security concerns by demonstrating that 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. *Id.* at ¶ 20(a). Additionally, an individual may be able to mitigate the security concerns if the conditions that resulted in the financial problem were largely beyond the person’s control and the person acted responsibly under the circumstances. *Id.* at ¶ 20(b). Further, if an individual has initiated and is adhering to a good-faith effort to repay overdue creditors, an individual may be able to mitigate a security concern. *Id.* at ¶ 20(d).

With regard to the Individual’s medical and miscellaneous debt, I recognize that she quickly resolved those debts once she learned of them. *See id.* at ¶ 20(d). However, I cannot find that the

Individual's financial situation does not cast doubt on her current reliability, trustworthiness, or good judgment. *Id.* at ¶ 20(a). The Individual appears to have a limited awareness of her financial situation, as demonstrated by her complete lack of knowledge of the five medical and miscellaneous debts, totaling over \$1000, listed on the summary of security concerns.

Furthermore, with regard to the student loans, it appears that, over the years, the Individual made no effort to address or manage the debt. The Individual demonstrated that she has very little knowledge of the details of her loans and readily acknowledged that she stopped paying on her four student loans over five years ago. She additionally stated that, at the time she ceased payment, she had only made eight months of payments toward the debt.³ Though the Individual testified that she was unable to make the student loan payments after graduating college, her current monthly budget shows that she spends in excess of \$500 a month on a recreational vehicle, but has failed to make any recent payments toward the outstanding student loan debt of nearly \$200,000. Ex. D. *See* Guideline F at ¶ 19(b); *contra id.* at ¶ 20(d).

For the foregoing reasons, I cannot find that the Individual has mitigated the DOE's security concerns under Guideline F.

VI. CONCLUSION

After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I have found that the Individual has not brought forth sufficient evidence to resolve the security concern associated with Guideline F. Accordingly, I have determined that the Individual's access authorization should not be granted.

The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Katie Quintana
Administrative Judge
Office of Hearings and Appeals

³ The Individual submitted published articles describing "illegal student loan debt collection lawsuits" taken against her creditor and debt collector; however, the Individual did not provide any evidence that indicated she was a victim of any such illegal action. Ex. F.