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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: June 16, 2023 ) Case No.: PSH-23-0096  
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Issued: September 7, 2023

**Administrative Judge Decision**

Brenda B. Balzon, 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.”<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual’s access authorization should not be granted.

**I. BACKGROUND**

A DOE contractor employs the Individual in a position that requires her to hold a security clearance. In May 2022, the Individual completed a Questionnaire for National Security Positions (QNSP). Exhibit (Ex.) 7. In the QNSP, the Individual disclosed that she had over \$17,000 in outstanding delinquent debt. *Id.* at 70–75. She further reported that she recently discovered, through public record, that she had an outstanding judgment against her for a \$1,500 personal loan from 2017. *Id.* at 70. She indicated the judgment may have been dismissed. *Id.*

Subsequently, the Local Security Office (LSO) asked the Individual to complete a Letter of Interrogatory (LOI), which the Individual completed on February 2023. Ex. 6. In her LOI, the Individual explained the circumstances surrounding each of the debts and why they had not yet been repaid. *Id.* at 34–38.

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<sup>1</sup> The regulations define access authorization as “an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as “access authorization” or “security clearance.”

Due to unresolved security concerns stemming from the Individual's disclosures, the LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding the Individual's eligibility to hold a security clearance. In an attachment to the letter entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines. Ex. 1.

The Individual exercised her 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 subsequently conducted an administrative review hearing. The LSO submitted eight numbered exhibits (Ex. 1–8) into the record and did not call any witnesses at the hearing. The Individual submitted three lettered exhibits (Ex. A–C) into the record and testified on her own behalf. *See* Transcript of Hearing (hereinafter cited as “Tr.”).

## **II. NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. The LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines. Ex. 1. It is well established that “[f]ailure 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.” Adjudicative Guidelines at ¶ 18. In citing Guideline F, the LSO alleged that the Individual had: unpaid collection accounts totaling approximately \$16,568, unpaid charge off accounts totaling approximately \$3,972, and an outstanding judgment to a bank for \$1,500. Ex. 1 at 5–6. The LSO also alleged that the Individual admitted in her LOI response that, despite informing a Defense Counterintelligence Security Agency (DCSA) investigator that she would take action to resolve her outstanding debts, she had failed to make payment arrangements for her delinquent debt. *Id.* at 6. The cited information justifies the LSO’s invocation of Guideline F.

## **III. REGULATORY STANDARDS**

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting her 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. 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.

#### **IV. FINDINGS OF FACT**

The Individual was interviewed by a DCSA investigator in September 2022, regarding her delinquent debts. Ex. 8 at 140, 142–44. She admitted to the investigator that she had three personal loans in collections in the amounts of \$1,232, \$881, and \$474. *Id.* at 143–44. She also admitted to two additional accounts in collections in the amounts of \$4,698 and \$9,283 and stated she had no further information on these accounts. *Id.* at 143. The Individual additionally told the investigator that she had charge off accounts for three different store credit cards in the amounts of \$641, \$519, and \$912. *Id.* at 143–44. In addition, the Individual admitted to having other charge off accounts in the amounts of \$1,375 and \$525 for personal loans. *Id.* Regarding her civil court judgment for \$1,500, a Report of Investigation (ROI) from DCSA reflects that the investigator searched civil court records but found no record of the judgment. *Id.*

The Individual told the DCSA investigator that she got behind on her financial responsibilities when her mother became sick, and she had to take leave from her job in order to help her mother. *Id.* at 58. She stated that she intended to make payment arrangements with her creditors. *Id.* at 143–44. However, when she completed her LOI in February 2023, the Individual stated that she had only been in contact with one creditor and had taken no other steps to resolve her debt. Ex. 6 at 37. Regarding her five collection accounts, she stated she had not made any payments since approximately November 2018. *Id.* at 36–37. She reported that, for her charge off account in the amount of \$519, her last payment was in September 2015. *Id.* at 35. She stated that, regarding her charge off accounts in the amounts of \$641, \$912, and \$525, she last made payments between June and July 2017. *Id.* at 34–36. For her charge off account for the personal loan, she reported that her last payment was in December 2017. *Id.* at 35.

At the hearing, the Individual testified that, from approximately June 2016 to August 2018, she took intermittent unpaid leave pursuant to the Family and Medical Leave Act (FMLA) to provide care for her mother who was ill. Tr. at 64. She stated that, during this time, she struggled to pay many of her bills. *Id.* at 11. She testified that she was able to earn some income by working at her job on the days that she was not taking intermittent FMLA, however, she used the majority of that income to pay rent and utilities rather than her other debts. *Id.* at 11–12. She testified that she stopped making payments on her outstanding collection accounts and charge off accounts due to her lack of financial resources while she was on FMLA leave. *Id.* at 18, 20–22, 24, 27–28.

The Individual’s testimony regarding the most recent payments that she made on each of her outstanding debts was generally consistent with her LOI response and reflected that she had not

made payments on any of her outstanding collections and charge off accounts since 2018. Tr. at 19–20, 24, 26, 28; Ex. 6 at 34–37. She also testified that she had no written agreements from any of her outstanding creditors regarding settlement amounts or payment plans. Tr. at 69–70. Regarding verbal agreements, the Individual stated that, in 2022, she contacted one creditor, which was for her \$9,283 collections account, and she got a verbal settlement agreement from the creditor. *Id.* at 15. However, she stated that although she gave the creditor her bank account information, the creditor never withdrew payments from her. *Id.* She stated she tried to contact the creditor again with no success, so she stopped trying to contact the creditor. *Id.* She testified that as of July 2023, she is engaging the assistance of a debt service company that will help her address this debt. *Id.* at 15–16, 28–29.

The Individual testified that she is in the process of disputing two of her collections accounts. Tr. at 17, 23. Specifically, she admitted that she has an account in collections for purchase of furniture. However, she asserted that the \$4,698 debt was inaccurate because the original purchase price was significantly less, and she made two years of payments prior to 2018. As such, she noted that the outstanding balance should be lower. *Id.* at 18; *see* Ex. 5 at 17 (Individual’s credit report reflecting \$4,698 balance). Regarding her collections account for \$881, she asserted that this account does not belong to her. Tr. at 23; *see* Ex. 5 at 19 (Individual’s credit report showing \$881 collections account). The Individual testified that she hired a debt settlement company that will assist her with these disputed accounts, but she does not yet know what the outcome of the dispute process will be.<sup>2</sup> Tr. at 19, 29, 47.

The Individual testified that she stopped taking FMLA leave in August 2018, and she became employed full time in September 2018; however, she noted that she did not try to address her delinquent debts at that time. Tr. at 66–67. She stated, “I’ve always had something to . . . not stop me, but to hinder me from paying.” *Id.* at 22. She asserted that her legal bills and, more recently, her medical bills have made it so “it’s always been to where [she] can’t catch up,” but she stated that she is now taking steps to address her unpaid debts now that she has more financial stability. *Id.*

The Individual testified that from August 2019 to August 2021, she and her husband incurred legal bills as a result of their successful attempts to gain custody of the Individual’s stepdaughter. Tr. at 13–14, 67; Ex. B (invoice for attorney’s fees reflecting a balance due of \$2,846.68). She described the lawyer fees as a “setback” in her attempts to pay back her other debts. Tr. at 22. The Individual testified that she and her husband were still paying off these legal bills at the time of the hearing, and she stated that they could potentially incur more legal bills because they are pursuing child support. *Id.* at 14, 68.

The Individual testified that, beginning in July 2022, she began to suffer serious health challenges, which led to significant medical bills. Tr. at 57. She testified that her health problems began shortly after her the DCSA investigator interviewed her regarding her delinquent debts. *Id.* at 40. The

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<sup>2</sup> The Individual submitted letter and invoice from the debt settlement company that provided a list of her outstanding creditors including the two accounts which she is trying to dispute. Ex. C. The letter further stated that she will have an appointment with the company in September 2023, to assist her with settling and resolving her outstanding debts. *Id.*

Individual further stated that she did not want to get behind on her medical bills, and that, at the time, she did not have the financial means to deal with both her medical bills and her delinquent debt. *Id.* The Individual admitted that, at that time, she did not try to contact her outstanding creditors to make alternative, lower payment arrangements, as she believed that she did not have any options to deal with her delinquent debts other than paying them off in full. *Id.* at 58.

The Individual testified that, in July 2023, she contacted a debt settlement company that will arrange settlements of her outstanding debts with her creditors and help her with her credit disputes in exchange for a fee. *Id.* at 28–29, 42. In support of her testimony, she submitted a letter with an invoice from the debt settlement company. Ex. C. Consistent with her testimony, the letter listed all the charge off and collections accounts and stated that the company is helping her settle those accounts and correct inaccurate information on her credit report. Ex C; Tr. at 16, 19, 21, 23, 25, 27. The Individual testified that she waited until July 2023 to contact the debt settlement company and address her delinquent debts because she did not have the financial resources to do so until her husband recently obtained a new job. Tr. at 29. The Individual further explained that she has an appointment on September 8, 2023, with the company, and at that appointment, they will help her create a budget and settle some of her delinquent debts. *Id.* at 43–44, 70. However, she testified that she does not know how many of her outstanding debts she will be able to settle on September 8, 2023, because it will depend on the settlement amounts that the company is able to obtain as well as what amount she can afford to pay based on her budget. *Id.* at 45. The Individual also testified that the debt settlement company offers courses on credit and budgeting and that she plans to take some of those classes in the future. *Id.* at 43.

The Individual testified regarding her additional current financial obligations. She stated that she has two credit cards, a small loan that she will pay off in October, and her legal fees. *Id.* at 32. She testified that, because she and her husband both needed vehicles, in approximately 2021, she took out a vehicle loan for \$22,022 for a used vehicle with a monthly payment of approximately \$535. *Id.* at 36; Ex. 5 at 22. She also testified that she and her husband recently obtained a \$43,000 loan for a truck that has a monthly payment of \$888. Tr. at 34–35. She asserted that her husband needs to have a truck for his job, and he needs a newer vehicle with a warranty. *Id.* at 37–38. The Individual asserted that her payments on her current accounts are all up to date, and she submitted a letter from a lease-to-own financing company which stated that the company received a final payment from the Individual in July 2023, and her account has been closed because it is paid in full. *Id.* at 16–17, 39; Ex. C. She stated that the account was for her purchase of new tires, and she asserted that she knew how to budget correctly so that she was able to pay off that debt quickly. Tr. at 39–40.

## V. ANALYSIS

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witness 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 regarding Guideline F. I cannot find that restoring 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 restored. The specific findings that I make in support of this Decision are discussed below.

The Adjudicative Guidelines provide that conditions that could mitigate a security concern under Guideline F include:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source . . . ; and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- (f) the affluence resulted from a legal source of income;
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Adjudicative Guidelines at ¶ 20.

I find that factor ¶ 20(a) does not resolve the security concerns. As of the hearing date, the Individual has not resolved any of her delinquent debts. Further, she has not made any payments on her outstanding debts since approximately 2018. Although she has contacted a debt settlement company to assist her with resolving her collections and charge off accounts, she took this action only one month prior to the hearing, and she is still in the process of determining how to address these accounts with her creditors. Her outstanding obligations are continuing, involve thousands of dollars, and have been an issue for years. As such, I cannot conclude 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. Therefore, I find that the Individual has not mitigated the security concerns under factor ¶ 20(a).

Regarding factor ¶ 20(b), the Individual incurred delinquent debts when she took intermittent FMLA leave to provide care for her mother who was ill. While this indicates that her delinquent debts were the result of circumstances largely beyond her control, she has not shown that she acted responsibly under the circumstances. Notably, she stated that, in 2018, her FMLA leave ended, and she obtained a full-time job. However, she did not make any payments on her outstanding

debts at that time. Between when the debts were incurred in 2018 and the time of the hearing, there were at least two extended periods of time when the Individual did not allege she was facing significant financial challenges, September 2018 to July 2019 and September 2021 to June 2022. However, the Individual did not take any action to attempt to resolve her debts during these times. Instead, she chose to wait until July 2023, one month prior to the hearing, to seek professional assistance in resolving her debts. Therefore, I find the Individual has not mitigated the security concerns under factor ¶ 20(b).

Regarding factor ¶ 20(c), the Individual has signed a contract with a debt settlement company to obtain help in resolving her debts. However, at the time of the hearing, the Individual had yet to have a meeting with the company. Although she stated that she also plans to take courses on budgeting and credit management offered by the company, she has not yet received these services. Further, she did not provide any documentation that showed the debts were “resolved” or at least “under control.” Therefore, I find that mitigating factor ¶ 20(c) is not applicable to this case.

Regarding factor ¶ 20(d), while the Individual testified that she intends to resolve her delinquent debts and has hired a debt settlement company to assist her, she has not presented any evidence that she initiated and is adhering to good-faith efforts to repay her outstanding creditors. Therefore, I find that mitigating factor ¶ 20(d) is not applicable to this case.

Regarding factor ¶ 20(e), the Individual stated that she is disputing the legitimacy of two of her delinquent debts; however, she has not provided any documentation to substantiate the basis of these disputes. In addition, although she is engaging the services of a debt settlement company, she has not presented any evidence of actions taken to resolve the two disputed accounts. Furthermore, she admitted that the majority of the past-due debts cited in the SSC were legitimate and her responsibility to address. Therefore, I find that mitigating factor ¶ 20(e) is not applicable to this case.

Regarding factors ¶ 20(f) and ¶20(g), the security concerns raised by the LSO do not involve unexplained affluence or taxes. Therefore, I find that these mitigating factors are not applicable to this case. Accordingly, for the foregoing reasons, I conclude that the Individual has not resolved the Guideline F security concerns.

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline F of the Adjudicative Guidelines. After considering all of 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.

Brenda B. Balzon  
Administrative Judge  
Office of Hearings and Appeals