

balance, the Individual stated it involved financing for a living room set, that he was one month behind on payments, and that he intended to make arrangements to catch up on payments. *Id.* When asked about the Direct TV balance, the Individual stated it was for equipment rental and return fees that he failed to pay, and he intended to contact the creditor and arrange for payment. *Id.* at 408.

On February 8, 2019, the Individual responded to a Letter of Interrogatory (LOI) issued by the Local Security Office (LSO), asking for information regarding his past due accounts. Ex. 7. Regarding the account associated with Verizon Wireless, the Individual disclosed that he had set up a payment plan requiring him to make \$25 monthly payments starting in April 2019. *Id.* at 49. Regarding the account associated with American First Finance, the Individual similarly stated that he had set up a payment plan whereby he would pay \$25 per month. *Id.* Regarding the account associated with Direct TV, the Individual stated that he would be making payments of \$50 starting on February 25, 2019, and ending on November 4, 2019. *Id.* at 50. The Individual was also asked about a charge off account with a balance of \$2,945 associated with Snap-On Credit. *Id.* at 50. He indicated that he had set up a weekly payment plan of \$25 a week starting on March 1. *Id.* Finally, the Individual was asked about a charge off account with a balance of \$776 associated with Security Finance. *Id.* at 51. He indicated that he had set up a payment plan whereby he would pay \$25 a week, and the debt would be fully resolved by November 1, 2019. *Id.*

When asked why had had not already resolved these debts after the May 2018 ESI, the Individual stated:

After my interview I got a parttime job to help with paying off debt. I managed to get my truck paid off in that time. My wife broke her leg and we went from 4 incomes down to 1. She was off work for about 6-7 wks without pay and I lost my parttime job because she needed so much assistance.

Id. at 47.

During a 2023 reinvestigation, it was revealed that the Individual continued to have several delinquent accounts, including a charge off account with a balance of \$3,476 associated with Snap-On Credit, a collection account with a balance of \$1,505 associated with Verizon Wireless, an account held by American First Finance with a balance of \$1,310, an account held by Security Finance with a balance of \$776, a charge off account with a balance of \$521 associated with World Finance Corporation, a collection account with a balance of \$354 associated with ATT DirectTV, a collection account with a balance of \$833 associated with Dish Network, and an account with Bridgecrest in the amount of \$12,312 stemming from an auto loan. Ex. 19 at 331–39. When confronted with each of these past due accounts during an April 13, 2023, ESI, the Individual stated he would look into the accounts and take responsibility for them. *Id.* at 298–302.

In response to an LOI dated August 30, 2023, the Individual provided further detail about his efforts to resolve these accounts. Ex. 6. Regarding the Snap-On Credit account, the Individual stated he had spoken to an account representative about setting up a payment plan, and he would need to call and make his first payment on September 28. *Id.* at 28. Regarding the Verizon Wireless account, the Individual stated he had reached out to the creditor but had not yet been able to

authenticate his account. *Id.* at 29. Regarding the American First Finance account, he indicated he had not yet been able to make contact with the creditor. *Id.* at 30. Regarding the Dish Network account, the Individual stated he had set up a payment plan consisting of four monthly payments of \$125, to begin on September 27, 2023. *Id.* at 31. Regarding the Security Finance account, he indicated that he had not yet made contact with the settlement department. *Id.* at 32. Regarding the World Finance Corporation account, the Individual stated that he had recently communicated with the creditor but had not yet settled the debt or set up a payment plan. *Id.* at 33. With regard to the ATT DirectTV account, the Individual stated he contacted the creditor and resolved to settle the debt for \$177.20, with payment to be made by the beginning of October. *Id.* at 34. Regarding the Bridgecrest account, the Individual indicated he would wait to pay off this debt until the older accounts were settled and paid. *Id.* at 37.

On September 18, 2023, the Individual signed and submitted to the LSO a Certification to Provide Information, by which he agreed to furnish no later than October 16, 2023, copies of payment plans and proof of payments made on all of his past due accounts. Ex. 16. Per this agreement, the Individual provided documentation showing that payment plans had been established for three of the eight accounts described above, but not showing that any payments had yet been made. Ex. 12; Ex. 13; Ex. 15.

On December 7, 2023, the LSO issued the Individual a letter in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 9. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline F (Financial Considerations) of the Adjudicative Guidelines. *Id.* at 6.

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 subsequently conducted an administrative hearing. The LSO submitted 19 exhibits (Ex. 1–19). The Individual submitted four exhibits (Ex. A–D).⁴ At the hearing, the Individual testified on his own behalf and offered the testimony of four co-workers. Tr. at 13, 23, 31, 40, 48. The LSO did not call any witnesses.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline F as the basis for its determination that the Individual was ineligible 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. According to the LSO, the behavior that gave rise to the Guideline F concerns were the Individual’s failure to resolve past due debts with Snap-On Credit, Security Finance, Verizon Wireless, American First Finance, Dish Network, ATT DirectTV, and Bridgecrest, despite his repeated assurances that he would.

⁴ The Individual’s exhibits were submitted one week after the conclusion of the hearing. I notified the parties during the hearing that I would hold the record open to allow for the submission of post-hearing exhibits, and on that basis have entered these exhibits into the record. Transcript of Hearing, OHA Case No. PSH-24-0058 (Tr.) at 96–97.

Ex. 1 at 6–8. This allegation justifies the LSO’s invocation of Guideline F. *See* Adjudicative Guidelines at ¶ 16(a), (b), (c).

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).

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. *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. HEARING TESTIMONY

The Individual called as witnesses four co-workers, who have worked with the Individual for all or part of the last six years. Tr. at 14, 24, 32, 40–41. Two of them described themselves as friends of the Individual outside of work. *Id.* at 14, 41. All four of them had some general awareness of the Individual’s financial issues, and all believed the Individual was trying to take steps to pay down his debts. *Id.* at 15–17, 25–26, 28, 32–33, 37, 42–44. Two of the coworkers, who considered themselves the Individual’s friends, testified that the Individual’s unpaid debts were attributable to various factors, including the stressors of COVID and inflation, the fact that he is raising four kids, and the fact that his wife has had medical issues that prevented her from keeping a steady income. *Id.* at 15–16, 42–43. They also recalled that the Individual had taken on parttime work to boost his family’s income, and he had at one time considered joining a credit counseling service. *Id.* at 16–17, 19, 44. None of the Individuals characterized the Individual as an extravagant spender, and all four attested favorably to his reliability, trustworthiness, and honesty. *Id.* at 17–18, 26–27, 34–35, 44–45.

The Individual testified as to the status of the eight delinquent debts cited in the SSC. First, with regard to Snap-On Credit, the Individual stated he incurred the debt when he purchased some tools for a previous job, sometime around 2017. *Id.* at 51. He acknowledged the outstanding of balance of \$3,476. *Id.* He stated that he made one payment in September 2023, but had not made any

payments since then due to circumstances involving his wife.⁵ *Id.* at 52. Specifically, his wife had a medical procedure done in September 2023, and then suffered a seizure in October, resulting in her inability to work much in the time since. *Id.* at 52–53. When asked why he hadn’t started making payments in 2019, as he assured DOE he would in the February 2019 LOI, he explained that shortly after completing the LOI, his wife had broken her leg, resulting in the loss of three incomes.⁶ *Id.* at 53–54. As a result, “this kind of fell to the side.” *Id.* Then, when his wife recovered and got back to work, her income was only sufficient to cover their monthly bills. *Id.* at 54–55. When asked whether he intended to resume making payments on this debt, the Individual stated that he did. *Id.* at 55. His wife just went back to work, he testified, so he would be able to resume payments at the end of May, or early June. *Id.* at 56–57.

With regard to Security Finance, the Individual testified that the debt was associated with a personal loan he secured in 2017 to help with vehicle issues. *Id.* at 57. He acknowledged the outstanding balance of \$776 was “probably” correct. *Id.* at 58. The Individual could not recall whether or when he had made any payments toward this debt and did not remember stating in the 2019 LOI that he intended to pay off the debt in full by November 2019. *Id.* at 58–59. He testified that he contacted the creditor in August or September 2023, but he couldn’t recall if that had resulted in a payment plan. *Id.* at 61–62.

With regard to ATT DirectTV, the Individual testified that he incurred the debt sometime around 2015 and that last year he negotiated a payment plan to resolve his outstanding debt, whereby payments would be debited from his bank account in October and November 2023. *Id.* at 76, 72–73; Ex. 13 (copy of the payment plan indicating that ATT DirectTV agreed to accept a reduced payment of \$159.48 and setting forth three scheduled payments in the amount of \$53.16 each). The Individual indicated that he believed the payments were made as scheduled, and therefore “[p]ossibly” the debt had been paid off, although he may have been confusing this debt with another one.⁷ *Id.* at 73. When asked why he had not resolved this debt at any time prior to 2023, the Individual indicated that his youngest child was born at the end of 2016, so it “had fell to the side.” *Id.* at 76–77. After that, he testified, he “was kind of focused on what was in front of me on a day-to-day basis, making sure everything, groceries and whatnot, all that was taken care of.” *Id.* at 77.

⁵ Later during his testimony, the Individual acknowledged that he had set up a payment plan with Snap-On Credit on October 16, 2023, whereby \$50 would be debited from his bank account each month beginning on October 31. Tr. at 67–68; *see* Ex. 12 (copy of the payment plan agreement setting forth these terms). He then asserted he probably did not make a payment in September 2023, as he had earlier testified, but more likely he had made his first and only payment on October 31. Tr. at 68–70. After that time, he acknowledged that his bank account likely did not have sufficient funds for additional payments to be made. *Id.* at 71–72.

⁶ This testimony, it should be noted, was inconsistent with the Individual’s report in the 2019 LOI, where he stated that his wife had broken her leg after the May 2018 ESI and was off work for six or seven weeks. Ex. 7 at 47.

⁷ The record appears to establish that the Individual had not in fact made those payments in 2023. After the hearing, the Individual submitted into the record a document indicating a payment of \$159.48, plus a \$7.98 convenience fee, was scheduled to be paid toward this debt on May 3, 2024. Ex. A at 1. The document further indicated, “Once your payment is processed, your account owing to ATT Direct TV will be listed in our records with a \$194.91 balance.” *Id.*

With regard to World Finance Corporation, the Individual testified that he had contacted the creditor in an effort to negotiate a settlement or payment plan, but unfortunately the creditor would only accept a single lump sum payment. *Id.* at 77–78; Ex. 14 (letter from creditor indicating it would settle the outstanding debt for a lump sum payment \$416.80, payable on September 30, 2023). According to the Individual, he was unable to make that payment, due to his wife’s medical issues and inability to work. *Id.* at 79–80. Shortly thereafter, he successfully entered into a payment plan with the creditor, but he did not make any payments in accordance with the plan. *Id.* at 80–81; Ex. 15 (copy of the payment plan indicating that five monthly payments of \$75 would be debited from the Individual’s bank account beginning on October 31, 2023).

With regard to Verizon Wireless, the Individual testified that the debt was incurred in 2016 when his cell phone bill “started to get too high” after his youngest child was born, and he got behind on his payments. Tr. at 82. He acknowledged that he had not made any payments toward this debt but asserted that the creditor had offered him a settlement, via a text message, in the amount of approximately \$635. *Id.* at 83. The Individual did not recall stating in the February 2019 LOI that he had set up monthly payments in satisfaction of this debt, but he acknowledged that he probably did. *Id.* at 84. Moving forward, he testified, he would contact the creditor to set up a payment plan and resolve the outstanding debt. *Id.* at 85. After the hearing, the Individual submitted into the record a document indicating that he had entered into a payment plan to resolve his debt for \$451.69, with three monthly payments to be debited from his bank account beginning on May 30, 2024. Ex. B; Ex. C.

With regard to American First Finance, the Individual testified this was a debt associated with a 2016 purchase of an electric reclining sofa and love seat. Tr. at 86, 89. According to the Individual, he had been making monthly payments on the debt until the motors went out, roughly a year after he made the purchase, at which time he called the company “just to come pick them up,” but they never came. *Id.* at 87, 90. At that time, he stopped making monthly payments. *Id.* at 90. He acknowledged the outstanding balance of \$1,310 was accurate, and he stated that he intended to contact the creditor to negotiate a payment plan. *Id.* at 88–89.

With regard to Dish Network, the Individual testified this was a debt associated with the cable box in his possession between 2015 through 2017. *Id.* at 92. According to the Individual, when he discontinued his Dish Network service he sent the box back, but he still got charged for it. *Id.* He didn’t dispute the debt because he felt it would “just be more of a hassle,” so he resolved to pay it off. *Id.* at 92–93. He contacted the creditor around August or September 2023, and the creditor agreed to settle the debt for around \$500, with monthly payments of \$125. *Id.* at 93–94. He made the first payment at the end of September, but had not made any payments since. *Id.* at 94. Going forward, he testified, with his wife back to work and his own parttime detailing company picking up more work, “I can really start pushing forward on all these accounts and making payments.” *Id.* at 95–96.

With regard to Bridgecrest, the Individual testified this debt was associated with a van that he purchased in 2017. *Id.* at 98, 100. Around 2020 the motor blew out, and after continuing to make payments for a few months, he had the van repossessed. *Id.* at 99–101. The van was sold at auction, but the Individual was still responsible for an outstanding balance of \$12,312, on which he has not

made any payments to date. *Id.* at 102–03. The Individual does not have any plans to pay off this debt at the present time, because he intends to satisfy his other debts first. *Id.* at 104.

The Individual testified as to various parttime jobs he has held since 2018 in an effort to make ends meet. First he had a job making hand railings for a few months, until his wife broke her leg and he had to part ways sometime in 2018. *Id.* at 105. He then got a parttime job at a big-box retailer for two months. *Id.* at 106. Thereafter he went several years without a second job, but in 2023 got hired “as an asset protection” for another big-box retailer. *Id.* He was let go about a month-and-a-half prior to the hearing due to his poor attendance, as he was missing work to take care of his wife. *Id.* In addition, the Individual testified, he started a car detailing business in September 2022, but thus far it hadn’t brought in much money. *Id.* at 106–07. As of the hearing date, he was actively looking for another parttime job. *Id.* at 108.

In 2018, the Individual signed up with a credit counseling service, and it was helping him out with his debts “for a while.” *Id.* In the time since, he has tried educate himself by reading books on the subject and implementing a household budget. *Id.* at 109. He testified that he intends to enroll in an online credit counseling course offered by his bank. *Id.* at 110.

With regard to his monthly budget, the Individual testified that he earns between \$3,600 and \$4,000 a month, with “about 500 left over a month for gas and groceries.” *Id.* at 115. His wife’s new job, he testified, will bring in another \$2,700 after taxes. *Id.* at 116. “So that will alleviate a little bit of the financial stress,” he testified. *Id.* at 116–17. After the hearing, the Individual submitted into the record a household budget he had prepared, which described his total monthly income as \$8,730 and total monthly expenses as \$5,950. Ex. D.

V. ANALYSIS

As indicated by his testimony Individual generally admits to the factual allegations contained in the SSC, but he seeks to mitigate the security concerns raised by the LSO. Conditions that may mitigate security concerns under Guideline F (Financial Considerations) 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.

As an initial matter, the mitigating factors at paragraph (f) and (g) are inapplicable to the facts of this case, as the LSO has not alleged that the Individual has any unexplained affluence or unpaid taxes.

Regarding mitigating factor (a), the behavior giving rise to the security concerns – the Individual’s failure to resolve multiple outstanding debts – began at least as early as 2018 and continues up to the present day. As such, I cannot find that it 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.

Regarding mitigating factor (b), the Individual testified as to various conditions that inhibited his ability to make payments towards his outstanding debts, including his youngest child’s birth in 2016, his wife’s broken leg in 2018 or 2019, and his wife’s medical procedure and seizure in 2023, all of which placed a strain on his finances. While some of these conditions were clearly outside the Individual’s control, there is no indication in the record that they persisted throughout the six-year period during which the LSO alleges he failed to make payments on his debts. Nor is there any record evidence to establish that these conditions “resulted” in the financial problems, rather than just exacerbated conditions that were already present. In addition, the Individual did not present evidence of actions – such as efforts to consolidate his debts or to cut back on spending – sufficient for me to conclude that he acted responsibly under the circumstances. Indeed, with regard to the debt associated with Dish Network, the Individual made the decision not to dispute it despite believing he does not in fact owe it. As such, the Individual has not demonstrated mitigation under the conditions of paragraph (b).

Regarding mitigating factor (c), while the Individual did testify that he engaged a credit counseling service “for a while” in 2018, there is no evidence of any benefit he derived from that service, nor are there any clear indications that his financial problems are being resolved or are under control. As such the Individual has not demonstrated mitigation under the conditions of paragraph (c).

Regarding mitigating factor (d), the record does not contain evidence that the Individual has made any payments on his outstanding debts since they were first identified to the LSO, other than his recollection that he made a single payment toward his Dish Network and Snap-On Credit debts in September and October 2023,⁸ and his submission of documents showing that he was scheduled

⁸ Regarding the Individual’s recollection of these payments, I do not assign it a high degree of weight, given his repeated admissions at the hearing that he lacked a memory of whether and when he had contacted various creditors,

to make payments on his debts with ATT DirectTV and Verizon Wireless in May 2024. On the contrary, the record is replete with evidence that the Individual entered into settlements and payments plans with his creditors, only to fail to make payments in accordance with those agreements. In light of these circumstances, I cannot find that the Individual has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Regarding mitigating factor (e), as noted above, the Individual testified that he was not in fact responsible for the debt with Dish Network, because he was charged for a cable box that he had properly returned to the company. But the Individual failed to provide documented proof to substantiate the basis of the dispute or provide evidence of actions to resolve the issue. As such, the Individual has not demonstrated mitigation under the conditions of paragraph (e).

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 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 SSC. Accordingly, I have determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Matthew Rotman
Administrative Judge
Office of Hearings and Appeals

entered into settlements or payments plans, or made assurances to the LSO that he would resolve his debts by a date certain. *See, e.g.*, Tr. at 58, 59, 60, 62, 73, 76.