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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 17, 2024 ) Case No.: PSH-24-0194  
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Issued: January 8, 2025

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**Administrative Judge Decision**

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Janet R. H. Fishman, 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."<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 be granted.

**I. BACKGROUND**

The Individual applied for access authorization in connection to his employment with a DOE Contractor. Exhibit (Ex.) 1 at 6.<sup>2</sup> On September 28, 2023, the Individual submitted a Questionnaire for National Security Positions (QNSP). Ex. 6 at 69. In the QNSP, the Individual disclosed that he had failed to file federal and state tax returns for tax years 2017, 2018, 2019, 2020, 2021, and 2022. *Id.* at 60–63.

On January 11, 2024, the Individual underwent an Enhanced Subject Interview (ESI) with an investigator with the Office of Personnel Management (OPM). Ex. 7 at 122. When asked about his failure to file federal and state tax returns for tax years 2017 to 2022, the Individual indicated that

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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."

<sup>2</sup> References to the Local Security Office's (LSO) exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

one year<sup>3</sup> he attempted to file his tax returns, but they were rejected. *Id.* at 126. He explained that he failed to file tax returns for the subsequent tax years “because he did not have the prior year[s]’ tax information . . .” *Id.* The Individual represented that he contacted the Internal Revenue Service (IRS) sometime in 2023 and the state tax authority in August 2023 to resolve the outstanding tax issues. *Id.*

Subsequently, the LSO requested that the Individual respond to a LOI; his response, dated July 1, 2024, confirmed that he continued to be delinquent in filing his federal and state tax returns for tax years 2017 through 2022. Ex. 5 at 21–24. The Individual, in his response to the LOI, explained that he “took steps to remedy” the issue and contacted the IRS and state tax authority. *Id.* at 30. The Individual further represented that the “IRS was very helpful [sic] in providing me with tax records . . . and determining that no balance was owed” but that he had less success in resolving the issue with the state tax authority. *Id.*

Due to the unresolved security concerns associated with his failure to file his tax returns, the LSO informed the Individual, in a Notification Letter dated August 21, 2024, that it possessed reliable information that created substantial doubt regarding the Individual’s eligibility to hold a security clearance. Ex. 1 at 6–7. 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. *Id.* at 5.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 10–11. 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 seven numbered exhibits (Ex. 1–7) into the record. The Individual submitted twelve lettered exhibits (Ex. A through L).<sup>4</sup> The Individual testified on his own behalf. *See* Transcript of Hearing, OHA Case No. PSH-24-0194 (hereinafter cited as “Tr.”).

## II. NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as the basis for denying the Individual a security clearance. Ex. 1 at 5. “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 . . . information.” Adjudicative Guidelines at ¶ 18. Among the conditions set forth in this guideline that could raise a disqualifying security concern is the “failure to file . . . annual [f]ederal, state, or local income tax returns or failure to pay annual [f]ederal, state, or local income tax as required[.]” *Id.* at ¶ 19(f). The SSC cited the Individual’s failure to file federal and state tax returns for tax years 2017, 2018,

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<sup>3</sup> The investigator’s notes from the ESI indicated that the rejected tax returns were from 2017; however, the Individual in response to a Letter of Interrogatory (LOI) informed the LSO that the rejected tax return occurred in “the year 2008 or prior . . .” *Compare* Ex. 7 at 126 (OPM Report) *with* Ex. 5 at 30 (Response to LOI).

<sup>4</sup> The Individual’s Exhibits A through L were submitted as a single PDF. Citations to the Individual’s exhibits are to the pages in the order in which they appear.

2019, 2020, 2021, and 2022. Ex. 1 at 5. 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 his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 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 testified that he attempted to electronically file his federal and state tax returns for tax year 2008 through a tax preparation company. Tr. at 9. At first, “everything said [the returns] [were] accepted . . . .” *Id.* However, after the filing deadline, the Individual received an email notifying him that his tax returns were “rejected.” *Id.* At the time, the Individual believed it was “now past the deadline” and “wasn’t sure how to resolve it.” *Id.*

The Individual attempted to file a tax return for tax year 2009 the next year and testified that “it asked for some information from [his] 2008 return” and that “since [he] didn’t have that” he believed he was “stuck.” *Id.* at 10. He continued to not file from 2008<sup>5</sup> to 2022 based on his belief

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<sup>5</sup> The QNSP only requested whether the Individual had failed “[i]n the last seven (7) years . . . to file or pay Federal, state, or other taxes . . . .” Ex. 6 at 60 (emphasis added). The LSO had knowledge of the Individual’s failure to file taxes for tax years prior to 2017. Ex. 5 at 30 (Individual’s response to the LOI indicating “[i]n the year 2008 or prior, [he] made a failed attempt to file [ ] income taxes . . . .”); *see also* Ex. 3 at 13 (DOE Case Evaluation Sheet citing to the Individual’s response to the LOI). In a statement that accompanied the LOI, the Individual implied that he had not successfully filed taxes since 2007. Ex. 5 at 30. (stating that, after receiving letters of collection from his state tax board for 2009 and 2010, he “[s]ometime around then [ ] changed [his] withholding status with [his] employer to claim 0 dependents in an attempt to mitigate any accruing debt” and that “[t]his must have made a difference because from that point on, [he] never received notices from the state [tax board] or the IRS”). Subsequent to receiving the Individual’s response to the LOI, the SSC only cited to the Individual’s failure to file his federal and state tax returns for tax years 2017 through 2022. Ex. 1 at 5.

that lacking prior tax years' tax information prevented him from completing tax returns for subsequent years. *Id.* The Individual testified that for approximately the first two tax years after 2008—tax years 2008 and 2009—he was notified by the state that he owed income taxes. *Id.* at 9. In 2010,<sup>6</sup> when he believed he could not file without having filed the previous year, the Individual adjusted his withholdings “so the maximum would get taken” from his paycheck and lessen or avoid further tax liability in subsequent tax years. *Id.* at 10. The Individual testified that he “never heard anything from the IRS” nor “from the state again” so made the “assumption that [he] was just overpaying for all those years.” *Id.* at 11.

During the hearing, the Individual was forthcoming about failing to file his annual tax returns but stated his belief that in a typical tax year he overpays approximately \$50 to \$200 in taxes. *Id.* When asked why he had not chosen to otherwise resolve the tax filing issues, the Individual explained that he “didn’t want to spend . . . thousands of dollars to hire a tax professional to worry about something that was a matter of a few hundred dollars.” *Id.* at 10; *see also id.* at 11–12 (testifying that he wasn’t concerned with getting the overpayments back because “[t]he expense to straighten it out seemed like it would be rather high”). He also believed that the tax authorities were “years behind” and “hop[ed] one day [he] would get a letter from both of them . . .” *Id.* at 12. He also testified that it was his belief that “if [he] didn’t file” tax returns after years of tardiness, then he “simply [couldn’t] file them.” *Id.* at 45 (testifying that “I can only go back five years. That’s what the tax professional at the [tax preparation company] informed me [ ]”).

From approximately June 2006 to February 2023, the Individual worked for his previous employer, which did not require access authorization. Ex. 6 at 41–42; *see also* Tr. at 13. The Individual testified that, in the last few years, work had slowed down. Tr. at 13. This resulted in him working as only a part-time employee approximately 25 hours per week and earning approximately \$40,000 annually. *Id.* During that time, the Individual had not been able to accumulate savings. *Id.* at 15. The Individual started working with the DOE Contractor in July 2023. Ex. 6 at 40. The Individual now earns approximately \$118,000 annually and has saved approximately \$20,000 since beginning his employment with the DOE Contractor. Tr. at 40.

The Individual testified that “before [he] even applied” for employment with the DOE Contractor, the Individual knew his outstanding tax returns would be an issue. *Id.* at 17; Ex. 5 at 30 (“When I was hired . . . , I knew this situation would be unacceptable[,] so I took steps to remedy it”). The Individual reached out to the IRS and state tax authority. Ex. 5 at 30. He determined that he could not use the online IRS system, so he went to an IRS office, which provided him with a record which he believed meant he did not owe anything. Tr. at 18. He provided the record to the OPM investigator, and it is included with the OPM Report. Ex. 7 at 141 (IRS Account Transcript stating that “Requested Data Not Found”).

While preparing for the hearing, the Individual “realized [he] needed more documentation” to resolve the security concerns. Tr. at 22–23. In late September or early October 2024, the Individual reached out to a tax preparation company to assist him in filing his overdue tax returns. *Id.* at 26.

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<sup>6</sup> The Individual testified that, “so kind of immediately in 2009 when I couldn’t file, I redid my withholdings to where I claimed zero so the maximum would get take and, you know, just to try to mitigate any penalties or building – accruing debt.” Tr. at 10. Even though the Individual referred to raising his withholding in 2009, it must have occurred in 2010, after he could not file his 2009 taxes.

For the 2021 and 2022 tax returns, the Individual could file electronically; however, for the 2017, 2018, 2019, and 2020 overdue tax returns, the Individual was required to mail the tax returns to the respective tax authorities. *Id.* at 26–27; Ex. A at 3–8; Ex. L at 54–56.

Due to his mistaken belief that he could not file his 2017 tax returns, the Individual did not mail those returns for filing until after the hearing. Tr. at 45 (testifying that he was under the impression that he “could only go back five years” and “simply [could not] file” the 2017 tax returns); Ex. L at 54–56 (screenshots from the United States Postal Service (USPS) website showing the tracking statuses of the 2017 tax returns and evincing the mailing of both returns in December 2024).<sup>7</sup> The Individual provided copies of his 2017 federal and state tax returns. Ex. L at 43–53. The 2017 state tax return reflects a refund due to the Individual for \$47. *Id.* at 48. The 2017 federal tax return reflects that the Individual owed \$9 for the 2017 tax year. *Id.* at 52. Both 2017 tax returns are dated December 2, 2024, and bear the signatures of the Individual and a tax preparer from the tax preparation company. *Id.* at 48, 52.

Regarding tax year 2018, the Individual testified that he mailed both his 2018 federal and state tax returns. Tr. at 27. The Individual also submitted screenshots from the USPS website showing the tracking statuses of the returns and corroborating that the tax returns for the 2018 tax year were mailed. *Id.* (Individual’s testimony discussing that he submitted Ex. A as evidence of mailing 2018, 2019, and 2020 tax returns); *see also* Ex. A at 3–8 (screenshots from the USPS website evincing that as of October 27, 2024, five of the returns were successfully delivered on October 24, 2024, while one was still in transit). The Individual submitted a letter he received from the state tax authority on November 14, 2024, stating that they had processed his 2018 tax return, that the Individual had overpaid \$106 in taxes, and that the Individual was disallowed from receiving a credit given the statute of limitations. Ex. B at 10.

Regarding tax year 2019, the Individual testified that he mailed both his 2019 state and federal tax returns. Tr. at 27. The Individual also submitted screenshots from the USPS website showing the tracking statuses of the returns and corroborating that the tax returns for the 2019 tax year were mailed. *Id.* (Individual’s testimony discussing that he submitted Ex. A as evidence of mailing 2018, 2019, and 2020 tax returns); *see also* Ex. A at 3–8 (screenshots from the USPS website evincing that as of October 27, 2024, five of the returns were successfully delivered while one was still in transit). The Individual also submitted copies of his 2019 federal and state tax returns. Ex. I at 28–37. The state tax return reflects that the Individual overpaid \$219 in taxes. *Id.* at 30. The federal tax return reflects that the Individual overpaid \$170 in taxes. *Id.* at 36. Both the copy of the 2019 state return and the copy of the federal return are signed by the Individual’s tax preparer and watermarked as a “client copy.” *Id.* at 28–37. A screenshot from the website of the state tax authority reflects that that the 2019 state tax return was successfully filed. Ex. G at 24.

Regarding the 2020 tax year, the Individual submitted a Tax Compliance Report from the IRS, reflecting that his 2020 tax return was filed “1268 days after the due date.” Ex. H at 26; Tr. at 35

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<sup>7</sup> The Individual also testified that he “hadn’t considered that just because [the tax preparation company] can’t do it, that doesn’t mean it’s not possible[.]” Tr. at 48. I informed the Individual that I would hold the record open to provide him with the opportunity to submit documentary evidence regarding his 2017 tax returns and his potential inability to file them. *Id.* at 47–48. It appears that the Individual may have been sincere but mistaken, given that, after the hearing, the Individual submitted a copy of his 2017 tax return and the proof of mailing.

(Individual's testimony that he "went to the IRS website and printed [the Tax Compliance Report] from there"). The Tax Compliance Report further reflects that "IRS tax records don't show any unpaid federal income, employment[,] or excise tax debt." *Id.* The screenshot from the state tax authority's website also reflects that a tax return was filed for tax year 2020 and that no balance was due. Ex. G at 24.

Regarding the 2021 tax year, the Tax Compliance Report from the IRS reflects that the federal return was filed "910 days after the due date." Ex. H at 26; Tr. at 35 (Individual's testimony that he "went to the IRS website and printed [the Tax Compliance Report] from there"). The screenshot from the state tax authority's website also reflects that a tax return was filed for tax year 2021 and that no balance was due. Ex. G at 24. Additionally, the Individual submitted a copy of a check for the \$210 refund that he received from the state tax authority for tax year 2021. Ex. E at 17; Tr. at 30 (Individual's testimony that he received this check sometime after October 2024).

Regarding the 2022 tax year, the Tax Compliance Report from the IRS reflects that the federal return was filed "330 days after the due date." Ex. H at 26; Tr. at 35 (Individual's testimony that he "went to the IRS website and printed [the Tax Compliance Report] from there"). The screenshot from the state tax authority's website also reflects that a tax return was filed for tax year 2022 and that no balance was due. Ex. G at 24. Additionally, the Individual received \$214 and \$167 as a refund from state and federal tax authorities for tax year 2022. Ex. F at 21–22; Tr. at 32 (Individual's testimony confirming receipt of both checks).

The Individual timely filed his 2023 federal and state tax returns using the same tax preparation company that helped him file his delinquent tax returns. Ex. 5 at 21, 23, 30; *see also* Ex. H at 26 (IRS Tax Compliance Report stating that the 2023 "[r]eturn was timely filed by the due date"); Ex. G at 24 (screenshot from state tax authority's website that indicates the 2023 tax return was filed). The Individual testified that he would continue to file his tax returns timely and does not anticipate having any problems with future filings. Tr. at 44. He also testified that he will probably continue to use the tax preparation company with which he has established a relationship. *Id.* at 45.

The Individual testified that he lives at home with his mother and his expenses are low. Tr. at 14. He said he has a thirteen-year-old car, and his mother just gave him her three-year-old car. *Id.* Both cars are paid off. *Id.* The Individual stated that he has approximately \$18,000 in savings. *Id.* at 16; Ex. J (showing a balance of \$17,468 as of the date of the hearing). He also has a balance of approximately \$10,000 in his retirement account. Ex. K.

## V. ANALYSIS

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.

As a preliminary matter, the cited security concerns are for the Individual's failure to file his federal and state tax returns from tax years 2017 through 2022. Accordingly, mitigating conditions (d), (e), and (f) lack application since the cited security concerns do not involve overdue or unresolved debts or unexplained affluence.

Regarding mitigating condition (a), the behavior—not filing his federal and state tax returns annually—occurred regularly from 2008 to 2022. Furthermore, the cited concerns, specifically the status of the 2017 to 2022 federal and state tax returns, remained delinquent until the fall and winter of 2024. Accordingly, I cannot find that the delinquencies were “infrequent” or occurred “so long ago.”

The circumstances under which the non-filing occurred include (1) the Individual's mistaken belief that he could not file his tax returns for post-2008 tax years without assistance; (2) his belief that it would cost thousands of dollars to pay for the assistance to fix his tax filing issues; and (3) his employment with his previous employer which required no access authorization. I find that the circumstances are no longer present and, on balance, support a finding that the non-filing of his taxes is (1) unlikely to recur with respect to future tax years and (2) does not cast doubt on his current reliability, trustworthiness, and judgment. From the record, the Individual has still not filed tax returns for tax years 2008 through 2016,<sup>8</sup> which is probative of both the possibility of recurrence in not filing future due tax returns and his judgment. However, I must also consider that the Individual has taken steps to address all the non-filed tax returns for the tax years cited in the SSC. For those years at issue and raised by the LSO, the Individual met with a tax preparation company, electronically filed his tax returns for those years that he could, and filed via mail for the remaining tax years. This weighs strongly in his favor. I also find compelling that the Individual

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<sup>8</sup> The Individual testified to his tax returns for tax year 2008 being rejected and failing to remedy the issue; attempting to file tax returns for tax year 2009 and not being able to do so; and then not filing for subsequent years. Tr. at 9–10.

filed his 2023 tax return timely with the tax preparation company. The steps taken with respect to the tax years in the SSC—combined with the Individual’s testimony that he understands the importance of filing his annual tax returns moving forward now that he has applied for a security clearance and the fact that he has engaged with a tax preparation company that can assist him with future due filings—leads me to believe that the non-filing of his future tax returns is unlikely to recur, despite the prior history of non-filing. Put another way, the circumstances resulting in his failure to file for several years are no longer present.

As for the Individual’s current reliability, trustworthiness, and judgment, much of the above evidence is similarly probative. His history of non-filing since 2008 reflects poorly on his reliability, trustworthiness, and judgment. Furthermore, his possibly mistaken—but honest<sup>9</sup>—beliefs that he could not file for subsequent tax years after 2008 or that he could not file the 2017 tax return are also somewhat probative of poor judgment.<sup>10</sup>

However, I must also consider his recent behavior and commitment to resolving the issues raised in the SSC, which ultimately outweighs that history. During the investigation but prior to his receipt of the SSC, the Individual made efforts to contact the tax authorities; prior to his hearing, he contacted tax preparation professionals for assistance with filing his 2018 through 2022 tax returns; and upon realizing that he may have been mistaken regarding his ability to file the 2017 tax returns,<sup>11</sup> he prepared and filed by mail his 2017 tax returns. In summary, the Individual has taken essentially every possible step to resolve the issues raised in the SSC. He filed his 2023 tax returns and has affirmed under oath that he will continue filing his future tax returns timely. I credit this affirmation because he was forthright about the issues, undertook diligent efforts to resolve the issues once raised by the LSO, and understood the importance of continuing to file his tax returns given his employment with the DOE Contractor. In consideration of the above, I find that

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<sup>9</sup> I have credited the sincerity of this belief for several reasons. Since the outset, the Individual has provided this explanation as his reason for non-filing. Consistent with this explanation, the Individual testified that he had, in the past, received tax bills in 2008 and 2009 when he owed money and reasoned that he would receive tax bills if he continued to owe. Further consistent with this explanation, the Individual testified that he re-did his withholdings so that he would typically overpay—which is supported in the documentary evidence. *See e.g.* Ex. L at 48 (2017 state tax return reflecting refund due for \$47); Ex. B at 10 (letter from state tax authority regarding Individual’s \$106 overpayment); Ex. I at 30, 36 (2019 federal and state tax returns reflecting \$170 and \$219 credit due respectively); Ex. G at 24 (state tax authority’s website reflecting 2020 tax return was filed and no balance was due); Ex. H at 26 (Tax Compliance Report from IRS reflecting 2020, 2021, 2022, and 2023 federal tax returns were filed and that no balance was due); Ex. E at 17 (copy of \$210 check received from the state tax authority for tax year 2021); Ex. F at 21–22 (copies of \$214 and \$167 checks received from the state tax authority and IRS for tax year 2022). The Individual’s explanation that he did not want to pay thousands of dollars to address his \$50 to \$200 overpayments also tends to support that the Individual sincerely believed he could not resolve the tax filing issues on his own.

<sup>10</sup> Based on this record, the \$9 tax liability for his 2017 federal taxes and any potential liability for his 2018 federal taxes offer little probative value on the Individual’s overall reliability, trustworthiness, and judgment. I note that the \$9 tax liability was minimal, and the Individual has demonstrated that he has the financial means to pay the amount. Ex. J. at 39. The Individual also likely ended up owing either a minimal amount or being due a tax credit for his 2018 federal taxes; the Individual testified that in 2009 or 2010 he had increased his withholding so that he would typically overpay his taxes, and this is supported in the record. *See supra* n.9.

<sup>11</sup> That the Individual had the tax preparer assist in finishing the 2017 tax returns and that he mailed the returns for filing after the hearing also tends to show that the Individual would seek out assistance if any future confusion or tax concerns arise.



the Individual is unlikely to not file his future annual tax returns and that the circumstances, as they are at present, do not cast doubt on the Individual's current reliability, trustworthiness, or judgment.

Regarding mitigating condition (b), there is some testimony that the Individual's original 2008 return was rejected and that he sincerely believed he could not file his tax returns in subsequent years. However, the Individual has demonstrated that with the assistance of a tax preparer, he could file his returns. Accordingly, I cannot find that the issues were "largely beyond" his control. Mitigating condition (b) does not apply. Furthermore, no evidence was put forth regarding financial counseling, and I cannot find that mitigating condition (c) applies.

Regarding mitigating condition (g), the Individual has made arrangements with the appropriate tax authorities to file the tax returns at issue. As noted above, the Individual has taken all the necessary steps to file the tax returns forming the basis for the allegations in the SSC. Mitigating condition (g) applies.

As such, I find that the Individual has mitigated the security concerns raised under Guideline F.

## **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 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 brought forth sufficient evidence to resolve the security concerns. Accordingly, I have determined that the Individual's access authorization should be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Janet R. H. Fishman  
Administrative Judge  
Office of Hearings and Appeals