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**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)
)
Filing Date: July 27, 2016)
_____)

Case No.: PSH-16-0069

Issued: October 25, 2016

Administrative Judge Decision

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, “Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.”¹ For the reasons set forth below, after carefully considering the record before me in light of the relevant regulations and the Adjudicative Guidelines, I conclude that the Individual’s security clearance should not be restored.²

I. BACKGROUND

A Local Security Office (LSO) obtained information that raised concerns regarding the Individual’s eligibility to hold a security clearance. In order to address those concerns, the LSO conducted a Personnel Security Interview (PSI) of the Individual on November 17, 2015. Because the PSI did not resolve these concerns, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his eligibility for a security clearance. *See* 10 C.F.R. § 710.21. The Individual requested a hearing and the LSO forwarded the Individual’s request to the OHA. The Director of OHA appointed me as the Administrative Judge in this matter on July 28, 2016. At the hearing I convened pursuant to 10 C.F.R. § 710.25(e) and (g), I took testimony from the Individual. *See* Transcript of Hearing, Case No. PSH-16-0069 (hereinafter cited as “Tr.”). The LSO submitted 18 exhibits, marked as Exhibits 1 through 18. The Individual submitted 15 exhibits, marked as Individual’s Exhibits A through O.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

¹ An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will also be referred to in this Decision as a security clearance.

² Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.energy.gov/OHA>.

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. That information pertains to paragraph (l)³ of the criteria for eligibility for access to classified matter or special nuclear material set forth at 10 C.F.R. § 710.8 (Criterion L).

The LSO alleges, under Criterion L, that the Individual owes \$303,617.67 in past due federal income taxes for the tax years of 2009, 2005, 2004, 2000, 1999, and 1998. The LSO further noted that the Individual had previously (in PSIs conducted on December 10, 2014, and August 24, 2010) been advised of the LSO's concerns about his financial responsibility, and that he had provided his assurances that he would work to resolve his financial issues. The Individual's pattern of financial irresponsibility and tax avoidance, as alleged, adequately justifies the LSO's invocation of Criterion L, and raises significant security concerns. The Adjudicative Guidelines state in pertinent part:

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. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds Conditions that could raise a security concern and may be disqualifying include: (a) inability or unwillingness to satisfy debts; (b) . . . the absence of any evidence of willingness or intent to pay the debt or establish a realistic plan to pay the debt; (c) a history of not meeting financial obligations; (d) deceptive or illegal financial practices such as . . . **income tax evasion** . . . ; (e) consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant negative cash flow, high debt-to-income ratio, and/or other financial analysis; . . . and (g) **failure to file annual Federal, . . . income tax returns as required** or the fraudulent filing of the same.

Adjudicative Guidelines at ¶¶ 18, 19 (emphasis added). Accordingly, the LSO properly determined that the information in its possession raised security concerns under the Adjudicative Guidelines.

III. REGULATORY STANDARDS

The Administrative Judge's role in this proceeding is to evaluate the evidence presented by the agency and the Individual, and to render a decision based on that evidence. *See* 10 C.F.R.

³ Criterion L refers to information indicating that the Individual has “engaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy; or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security. Such conduct or circumstances include, but are not limited to, criminal behavior, a pattern of financial irresponsibility, conflicting allegiances, or violation of any commitment or promise upon which DOE previously relied to favorably resolve an issue of access authorization eligibility.” 10 C.F.R. § 710.8(l).

§ 710.27(a). The regulations state that “[t]he decision as to access authorization is a comprehensive, common sense judgment, made after consideration of all the relevant information, favorable and unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest.” 10 C.F.R. § 710.7(a). In rendering this opinion, I have considered the following factors: the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, including knowledgeable participation; the frequency and recency of the conduct; the Individual's age and maturity at the time of the conduct; the voluntariness of the Individual's participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct, the potential for pressure, coercion, exploitation, or duress; the likelihood of continuation or recurrence; and other relevant and material factors. *See* 10 C.F.R. §§ 710.7(c), 710.27(a). The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

The Individual has a long history of failing to meet financial and legal obligations. The Record shows that he failed to file his income tax returns from 1998 to 2005, when the Internal Revenue Service (IRS) began auditing him. As of the issuance of the Notification Letter on June 17, 2016, the Individual had outstanding tax liens for past due federal income taxes for the tax years of 2009, 2005, 2004, 2000, 1999, and 1998, totaling \$303,617.67.

The IRS Tax Transcripts

Both the LSO and the Individual have submitted the Individual's IRS transcripts for tax years 1998, 1999, 2000, and 2004. These tax transcripts show that the Individual and his spouse often had a relatively high income during this period, yet repeatedly failed to withhold sufficient amounts of income to meet their yearly tax responsibility, and then failed to file their tax returns. In tax year 2004, the Individual's Adjusted Gross Income (AGI) was \$349,248, of which \$188,145 was considered to be taxable income. Ex. 13 at 1. The Individual owed \$57,847 in taxes for that year. Ex. 13 at 1. His spouse had \$87,900 in taxable self-employment income that year, and owed \$14,734. Ex. 13 at 1. The tax return for tax year 2004 was not filed until 2006. Ex. 13 at 1. In tax year 2000, the Individual's AGI was \$300,880, of which \$84,090 was considered to be taxable income. Ex. 13 at 6. The Individual owed \$0 in taxes for that year. Ex. 13 at 6. His spouse had \$33,000 in taxable self-employment income that year, and owed \$5,080. Ex. 13 at 6. The tax return for tax year 2000 was filed late. Ex. 13 at 7. In tax year 1999, the Individual's AGI was \$148,989, of which \$105,838 was considered to be taxable income. Ex. 13 at 11. The Individual, owed \$35,530 in taxes for that year, yet only had \$4,163 in withholdings. Ex. 13 at 11. His spouse had \$83,998 in taxable self-employment income that year, and owed \$11,358. Ex. 13 at 11. In tax year 1998, the Individual's AGI was \$102,351, of which \$40,553 was considered to be taxable income. Ex. 13 at 17. The Individual, owed \$13,526 in taxes for that year, yet only had \$934 in withholdings. Ex. 13 at 17. His spouse had \$56,876 in taxable self-employment income that year, and owed \$8,702. Ex. 13 at 17.

The August 24, 2010, PSI

On August 24, 2010, the LSO conducted a PSI of the Individual. During this PSI, the Individual acknowledged that he owed federal taxes dating back to 1998. Ex. 17 at 7. When the interviewer

asked the Individual to explain why he owed these taxes, the Individual first responded by claiming that he was unfamiliar with the contents of his tax returns because his spouse had prepared and filed them, and that he was ignorant of his spouse's actions or omissions (as well as the fact that he owed back taxes) until the IRS audited them in 2006. Ex. 17 at 8-9, 15, 17. The Individual further explained that the tax deficiencies had occurred because his spouse had filed their tax returns, but had only reported his income, while omitting her income from their returns. Ex. 17 at 8, 17. When he was asked why his spouse failed to claim her income, he stated that: she had health issues and that their adult son had undergone a series of eight operations after an accident.⁴ Ex. 17 at 8. The Individual further speculated that his spouse failed to report her income because she had a gambling problem.⁵ Ex. 17 at 17, 25-6, 74, 91, 95.

The Individual went on to provide a number of claims that either contradicted other statements he made during this PSI, or have been contradicted elsewhere in the record. For example, the Individual claimed that: he and his spouse have always filed their taxes, there were no further issues with paying taxes after the audit in 2006, the tax liens for 1998 and 1999 "disappeared," that they had paid their back taxes for tax years 1998 and 1999, and those liens had been removed. Ex. 17 at 17, 20-21, 30. The Individual further stated his intention to pay his debts and become debt free.⁶ Ex. 17 at 84. The Individual stated that he would like to enter into a lump sum settlement with the IRS to address his outstanding debt to them. Ex. 17 at 40. The Individual stated that he believes that they live within their means. Ex. 17 at 77. The Individual was warned that the LSO expected the Individual to resolve his financial issues. Ex. 17 at 88, 121.

The December 10, 2014, PSI

On December 10, 2014, the LSO conducted a second PSI of the Individual inquiring into his financial issues including a garnishment⁷ of his pay and outstanding tax liens. Ex. 16 at 7. The

⁴ Upon further questioning, the Individual stated that his son's accident occurred in 2004. Ex. 17 at 8, 23. During this PSI, the Individual also stated that he had no idea what caused their financial problems and then guessed that their financial concerns at that time were caused by having to pay their son's college tuition, legal problems, his spouse's business's downturn, and by his spouse's cancer. Ex. 17 at 69-70. The Individual also stated that he had been out of work for a number of years until October 1998, and reported that he and his spouse had to pay a judgment of \$50,000 after being sued. Ex. 17 at 16-18, 53.

⁵ He opined that his spouse's gambling must have stopped. Ex. 17 at 26.

⁶ In support of his contention that he would soon be able to resolve his financial issues, the Individual stated that he had received an "inheritance from a sister that died" in 2008. Ex. 17 at 24. He did not recall the size of that inheritance. Ex. 17 at 24. The Individual also stated that he was expecting \$20,000 in proceeds from his sister's life insurance policy. Ex. 17 at 47, 122. At the hearing, the Individual initially denied ever receiving an inheritance or life insurance benefits. Tr. at 71. The Individual subsequently recalled that he had inherited \$20,000 from his sister. Tr. at 72.

⁷ The Individual explained that the garnishment resulted from a judgment obtained against the Individual and his spouse in civil court. Ex. 16 at 8. The Individual was unable or unwilling to provide any detail concerning the civil suit, except to state: "My wife had some dealings with real estate. And this lawsuit was the result of what occurred" and "this guy lent my wife money or what." Ex. 16 at 10-13. During the previous PSI, The Individual could not recall the details of this lawsuit except to say that it involved "somethin' to do with a real estate deal that was goin' on." Ex. 17 at 53-54. During a subsequent November 17, 2015, PSI, he again could not recall any specifics about this lawsuit, except to say: "It was some kinda real estate thing, I'm not sure exactly whether money was borrowed and not paid back or what." Ex. 15 at 98.

Individual was also asked about two outstanding IRS tax liens. The Individual explained that his spouse had not “been paying her income tax,” but had no idea why his wife was not paying income tax. Ex. 16 at 16-17.

The November 17, 2015, PSI

On November 17, 2015, the LSO conducted a third PSI of the Individual inquiring into his financial issues including outstanding IRS tax liens. During this PSI, the Individual was asked to explain why he was experiencing financial problems. The Individual cited as causes for his financial problems: his, his spouse’s, and his son’s health issues;⁸ his unemployment from 2007 until 2008; his outstanding student loan obligations; his son’s legal issues;⁹ and the significant decline in his spouse’s real estate business. Ex. 15 at 29-30, 39-40, 66-68, 70. The Individual again speculated that his spouse may have had a gambling problem in the past. Ex. 15 at 88, 103, 107.

The Individual again claimed that the tax deficiencies which led to the tax liens filed against them resulted from his spouse’s failure to file “her taxes” from 1998 through 2005, although he claimed that his spouse had filed “his” tax returns. Ex. 15 at 31, 34-35, 38, 52, 54, 101, 107, 183-184. However, during further questioning the Individual subsequently admitted that they did not file tax returns from 1998 through 2005, and that the tax returns for those years were not filed until the IRS’s audit in 2005 or 2006. Ex. 15 at 37. He then contradicted himself again, stating that he and his spouse had filed joint returns, but had omitted his spouse’s income from these returns. Ex. 15 at 38, 52. After making this statement, he claimed that he had never seen the tax returns, but that his tax returns “were definitely filed and I can get you proof.”¹⁰ Ex. 15 at 38. The Individual claimed that all of his tax returns had been filed up to the last year, and admitted that they had not filed for the 2014 tax year, claiming that their accountant had advised them to delay filing for as long as possible, in order to avoid arousing the IRS’s suspicion. Ex. 15 at 32-33, 62, 161.

The Individual reported that the IRS had stopped collection activity against him since 2013, because he is on hardship status. Ex. 15 at 46. As he had claimed in his August 24, 2010, PSI, the Individual stated that he is trying to negotiate a payment plan with the IRS. Ex. 15 at 48, 112. The Individual reported that the IRS audited them again for tax year 2009, and determined that some of the deductions they had claimed were not valid. Ex. 15 at 72-73, 104. The Individual reported that his spouse still handled their financial matters including the tax returns, although he has become more involved. Ex. 15 at 184-185, 197. The Individual described himself as financially responsible. Ex. 15 at 196.

V. ANALYSIS

⁸ The Individual quantified these medical expenses at “a few thousand dollars.” Ex. 15 at 68. Ex. 15 at 62.

⁹ The Individual again stated that they incurred \$40,000 to \$50,000 in legal and rehabilitation costs due to their adult son’s criminal activity and drug addiction. Ex. 15 at 43. Subsequently, the Individual indicated that these issues cost them over \$100,000. Ex. 15 at 178.

¹⁰ The Individual claimed that his spouse had his permission to sign his name on their tax returns, and that he never actually saw his tax returns. Ex. 15 at 35, 183.

At the hearing, the Individual attempted to show that he has resolved the security concerns raised by his repeated failure to pay his Federal taxes by showing that he has entered into a payment plan with the IRS, and that his expected income going forward is sufficient to both allow him to meet his monthly expenses and comply with his obligations under the payment plan. It is important to note that even though the Individual has been able to show that he has entered into a payment plan with the IRS, and that his expected income going forward is sufficient to both allow him to meet his monthly expenses and comply with his obligations under the payment plan, it does not resolve all of the security concerns arising under Criterion L, since the Record shows that (1) the Individual, through either negligence or knowing participation, was a party to a longstanding pattern of avoiding his tax obligations, and (2) has not demonstrated that he has actually succeeded in implementing the budget he presented at the hearing.

The only witness who testified at the hearing was the Individual. This fact detracted from the strength of the case presented by the Individual, since he has claimed that his spouse was responsible for failing to pay their taxes.¹¹ Moreover, because the Individual attributed some of their financial difficulties to his spouse's gambling, her absence prevented him from presenting information showing that his spouse's gambling is no longer a threat to their financial solvency.¹²

At the hearing, the Individual testified that he first had financial issues in 1995, when he was laid-off. Tr. at 13. The Individual also testified that he and his spouse had to pay \$65,000 after losing a lawsuit filed against them. Tr. at 32. The Individual further cited his son's medical issues,¹³ his spouse's legal problems, and his spouse's decision to refrain from filing their income tax returns as causes for his financial problems. Tr. at 60.

The Individual testified that he has never failed to file his taxes on time.¹⁴ Tr. at 14. He then admitted that their tax returns for tax years 1998 through 2005 were not filed until 2006, when they were audited by the IRS. Tr. at 14 -17. The Individual testified that it was his spouse that failed to file these returns, and that he was unaware that their taxes were not being filed until they were audited in 2006.¹⁵ Tr. at 14, 15, 17, 66. The Individual testified that he gave his spouse permission to sign his tax returns for him, and that she did so, even though he recognizes that he was required to sign the tax returns. Tr. at 15. The Individual testified that they have paid their taxes on time since there were audited in 2006.¹⁶ Tr. at 26.

¹¹ The Individual has submitted a written statement from his spouse, in which she admitted that she "fell behind filing the taxes. Out of fear." Ex. E at 2.

¹² The spouse's statement does not mention a gambling issue. Ex. E.

¹³ The Individual testified that his maximum yearly out of pocket payment for his son's medical bills was \$5,000. Tr. at 61. The Individual also testified that he spent \$40,000 on his son's legal issues. Tr. at 65.

¹⁴ The Individual further testified that he had always had enough money withheld from his paycheck to meet their tax liability. Tr. at 35.

¹⁵ The Individual testified that he never asked his spouse about their taxes between 1998 and 2006. Tr. at 16.

¹⁶ The IRS audited the Individual and his spouses return for tax year 2009, and disallowed some of the deductions that they had claimed. Tr. at 26-27.

The Individual admitted that his failure to monitor his tax returns during the period 1998 through 2006 constituted a definite lapse in judgment. Tr. at 37. He testified that his spouse had an “extreme lapse of judgment.” Tr. at 38. Nevertheless, the Individual testified that he has a high level of trust in his spouse of 36 years. Tr. at 38. The Individual further testified that he realizes that it was also his responsibility to ensure that they complied with their tax obligations. Tr. at 38. Since 2006, the Individual has participated in the filing of his tax returns. Tr. at 37.

The Individual testified that he has entered into a payment plan with the IRS for tax years 1998, 1999, 2004, 2005, and 2006.¹⁷ Tr. at 20. Under the terms of this payment plan,¹⁸ the Individual and his spouse are required to pay \$1,780 by the 15th of every month starting on September 15, 2016. Tr. at 23. The Individual testified that the initial payment on his installment agreement with the IRS has been postponed from September 15, 2016, to October 16, 2016. Tr. at 78. The Individual could not explain why this postponement occurred. Tr. at 78. At the time of the hearing, the Individual had not made any payments on his IRS installment plan. Tr. at 81.

The Individual testified that he is not delinquent on any debts other than his back taxes, and that he expects to meet his expenses going forward. Tr. at 56, 104. To this end, the Individual submitted an itemized list of the Individual and his spouse’s estimated monthly expenses. Ex. D at 1. Ex. D estimates their monthly expenses¹⁹ to be \$8,235.²⁰ Ex. D at 1. Ex. D also documents that the Individual receives \$2,068 a month in Social Security benefits, and that his spouse’s business had a net profit of \$16,338,²¹ during the period beginning on January 1, 2016, and concluding on August 14, 2016. Ex. D at 2-3. The Individual testified that his monthly take home pay is “about \$4,100.” Tr. at 40. The Individual established that his expected monthly income (\$8,346) exceeds his expected monthly obligations (\$7,930), by \$416 a month, as long as his spouse’s income remains consistent. However, the Individual also admitted that he has no viable plan to meet his monthly expenses if his spouse’s income, which consists primarily of commission from her real estate sales, declines. Tr. at 57-58. When the Individual was asked if he understood the DOE’s concern about his finances and his ability to meet his obligations going forward, the Individual replied by stating: “I think they got more concern over it than I do. . . . I’m going to make my payments. There is no doubt about it.” Tr. at 58. The Individual admitted that the DOE has only his word to rely upon when deciding if he is likely to meet his financial obligations going forward. Tr. at 58.

¹⁷ This installment agreement, dated August 16, 2016, appears in the Record as Ex. C.

¹⁸ The Individual testified that he had previously tried to enter into a payment plan with the IRS on two previous occasions, but the IRS “was not amenable to any payment plan.” Tr. at 31. However, during his November 17, 2015, PSI, the Individual reported that they had once been on a payment plan with the IRS, but discontinued it because “it wasn’t working.” Ex. 15 at 55, 122. The Individual did not know when that payment plan started or ended. Ex. 15 at 55.

¹⁹ The Individual was unable to explain which expenses were included in Ex. D’s line item delineated as “miscellaneous.” Tr. at 82.

²⁰ This figure does not include the \$1,780 per month that the Individual and his spouse have agreed to pay the IRS under their installment agreement. Tr. at 39. Moreover, at the hearing, the Individual correctly noted that some of the monthly expenditures that appear in Ex. D were taken out of his paycheck: including his health insurance, (\$347), his 401k contribution (\$604), and two 401k loan repayments totaling \$1,046. Tr. at 47.

²¹ Which extrapolates to \$2,178 monthly, or \$26,141 yearly.

As an initial matter, I note that throughout his interactions with the LSO, and during this proceeding, the Individual has provided contradictory information, and difficult to believe information,²² to LSO employees and to me. Moreover, the Individual often professed ignorance about important matters, including a lawsuit that resulted in him having to pay \$65,000.²³ As a result, I cannot rely upon his uncorroborated assertions.

Guideline F sets forth five conditions which can mitigate security concerns arising from financial irresponsibility. Specifically, ¶ 20 provides that security concerns arising from financial irresponsibility can be mitigated if:

- (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, . . .), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and,
- (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.

Guideline F at ¶ 20. In the present case, the Individual has not established that any of these five conditions are sufficiently present to resolve the security concerns raised by his failure to timely pay his taxes from 1998 to 2005. While it is true that the Individual appears to have been filing his tax returns appropriately for the past 10 years, under the watchful eye of the IRS, the Individual has not shown that his failure to meet his tax obligations is unlikely to recur, and the Individual's conduct during the present proceeding casts doubt on the his current reliability, trustworthiness, and good judgment. While some of the circumstances leading to the Individual's financial problems were beyond his control (medical and legal problems, a period of unemployment, and a downturn in his spouse's business), these problems were greatly exacerbated by the Individual's lapse in judgment in failing to ensure both that his tax returns were timely filed, and that he had fully complied with his tax obligations. Moreover, the Individual, by attempting to deflect responsibility for his failure to comply with his tax obligations onto his spouse, even though she

²² After noting that the IRS tax transcripts indicated that he had made much more than a comfortable living during several of the years in question, I asked how he could have had financial problems: he stated that there was no way he could have made the amounts indicated in the IRS transcripts. Tr. at 68-77.

²³ At the hearing, the Individual could not, or would not, recall any specifics concerning this lawsuit. Tr. at 65.

may have been the animating force in their tax avoidance activities, exhibited a significant lack of trustworthiness, reliability, and judgment, which has carried forth to the present. While the Individual claims to be working with an accountant to resolve his issues with the IRS, he has not corroborated this assertion. Moreover, the Individual had, at the time of the hearing, not yet made any payments on his IRS payment plan, and has not yet demonstrated his ability to adhere to the budget he has submitted as Ex. D. While the Individual has entered into a payment plan with the IRS, this payment plan was not initiated by the Individual, but rather was forced upon him by the collection actions of the IRS. Finally, the Individual has not articulated a reasonable basis to dispute the legitimacy of his tax debt, and has not provided any documented proof to substantiate such a claim.

For these reasons, I find that the Individual has not resolved the security concerns arising from his outstanding debt to the IRS or from his failure to comply with his tax obligations. Accordingly, I find that the Individual has not resolved the security concerns, raised under Criterion L.

VI. CONCLUSION

For the reasons set forth above, I conclude that the LSO properly invoked Criterion L. After considering all the evidence, both favorable and unfavorable, in a common sense manner, I find that Individual has not sufficiently mitigated all of the Criterion L security concerns. Accordingly, the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, the Individual's security clearance should not be restored at this time. The Individual may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine
Administrative Judge
Office of Hearings and Appeals

Date: October 25, 2016