



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 16-04082
)
Applicant for Security Clearance)

Appearances

For Government: Adrienne Driskill, Esq., Department Counsel
For Applicant: *Pro se*

02/28/2019

Decision

HEINY, Claude R., Administrative Judge:

Applicant contests the Department of Defense’s (DoD) intent to deny his eligibility for a security clearance to work in the defense industry. Applicant had eight delinquent accounts that were either past due, charged off, or in collection, which totaled in excess of \$54,000. Additionally, his parents and father-in-law are citizens and residents of Cameroon. He has mitigated the foreign influence security concern, but has made insufficient progress toward resolving his past-due debts. Applicant’s eligibility for access to classified information is denied.

Statement of the Case

On March 14, 2017, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, financial considerations, and Guideline B, foreign

influence and explaining why it was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him.¹

On April 5, 2017, Applicant responded to the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On February 7, 2018, DOHA issued a Notice of Hearing scheduling a hearing that was conducted on March 1, 2018. At the hearing, six Government exhibits (Ex. 1-6) and eight Applicant exhibits (Ex. A-H) were admitted into evidence without objection. The record was held open following the hearing to allow Applicant to submit additional documents should he chose to do so. Post-hearing documents were received and were admitted into the record as Ex. K-U. Documents submitted by Applicant as attachments to his answer were considered. Applicant testified, as reflected in a transcript (Tr.) received on March 9, 2018.

While this case was pending a decision, the Director of National Intelligence issued Security Executive Agent Directive 4, establishing the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), which he made applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The new AGs supersede the Sept. 1, 2006 AGs and are effective “for all covered individuals” on or after June 8, 2017. Accordingly, I have evaluated Applicant’s security clearance eligibility under the new AGs.²

Procedural Rulings

A risk assessment in this case necessitates administrative notice of facts concerning Cameroon. Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). Usually administrative notice at ISCR proceedings is accorded to facts that are either well known or from government reports.

Findings of Fact

In Applicant’s answer to the SOR, he stated he was working to resolve the \$10,928 automobile loan (SOR 1.a) and \$1,469 telephone service debt (SOR 1.b). He denied the remaining six delinquent accounts. He admitted he had relatives who were citizens and

¹ The DoD CAF took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG) effective within the DoD on September 1, 2006, for all adjudications for national security eligibility or eligibility to hold a sensitive position.

² Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case. The new AGs are available at http://ogc.osd.mil/doha/5220-6_R20170608.pdf.

residents of Cameroon. After a thorough review of the pleadings, testimony, and exhibits, I make the following findings of fact.

Applicant is a 40-year-old project specialist who has worked for a defense contractor since September 2014. (Ex. 1, Tr. 27) He seeks to obtain a security clearance. (Ex. 1) He is married and has two children. (Ex.1, Tr. 59) He has never served in the U.S. military. (Tr. 30) In February 2018, he received an applause award and monetary award for his work contributions. (Ex. G) In December 2003, he received a Master's of Business Administration (MBA) from an American university. (Ex. 1)

Applicant was born in and was a citizen of Cameroon. In February 2000, Applicant visited the United States when he came to the United States to further his education and to avoid violence and turmoil in Cameroon. (Tr. 31) At that time, Cameroon was politically unstable and had a high murder rate. (Ex. 3) He feared for his life in Cameroon and applied for political asylum in the United States. (Tr. 32) In 1997, he had been arrested for protesting against the Cameroon government. (Tr. 33) His brother had also been arrested. (Tr. 35) One of his cousins has been jailed indefinitely and Applicant has had friends killed by the police. (Tr. 94) The government had been autonomous and a dictatorship. (Tr. 34) Cameroon has improved politically to the point Applicant visited Cameroon for three weeks in 2013. That was his first visit since leaving the country in 2000. (Ex. 3, Tr. 64) Cameroon does not accept dual citizenship. (Tr. 52)

Applicant's brother and his sister are Cameroon nationals. His other brother is a naturalized U.S. citizen and lives with him. (Ex. 3, Ex. D, Tr. 20) A couple of months after Applicant arrived in the United States, his brother arrived and two years later, his other brother and sister arrived. (Tr. 19) His siblings were granted political asylum. (Ex. 3) One brother lives in Canada and is a Canadian permanent resident pending Canadian citizenship. (Tr. 56) His sister, a cosmetologist, lives in Arkansas and is a U.S. registered alien pending her citizenship. (Ex. 1, Ex. 2, Tr. 20, Tr. 54) She cannot apply for citizenship until she has been a registered alien for five years. (Tr. 53) In 2012 and 2013, he traveled to Canada to visit his brother and in 2013, he visited his family in Cameroon, as previously stated.

In June 2012, Applicant became a naturalized U.S. citizen. (Ex. 1, Ex. 2, Tr. 32) He feels loyalty to the United States and has no divided loyalty. (Tr. 97) His wife is a Cameroon national and has U.S. alien registration. (Ex. 3, Tr. 25) His wife was already living in the United States when they met in 2011. She had been previously jailed in Cameroon for political protesting and was granted political asylum in the United States. (Tr. 63) They met in March 2011 and married in November 2011. (Ex. 1, Ex. 2) (Ex. 3) He anticipates his wife will become a naturalized U.S. citizen in 2020. (Ex. 3, Ex. D) She is a business analyst working for an insurance company. (Tr. 2, Tr. 59) His two children were both born in the United States. (Tr. 59) His father-in-law is a Cameroon national, retired from the Cameroon railway services, and is now a fireman. (Ex. 1, Ex. 2, Tr. 60) Applicant has contact with his father-in-law by telephone twice a month. (Tr. 61) His wife has two siblings living in Cameroon and three living in the United States. (Tr. 62) The record is silent as to Applicant's contact with these individuals.

Applicant's mother and father are both Cameroon nationals and are retired civil servants. In her mid-30 to mid-40s, his mother worked ten years as a meteorologist for the Cameroon government. (Ex. 2, Ex. 3, Tr. 45, Tr. 46) After retiring, she worked as a finance manager for a private construction and security company and is now retired. (Ex. 1, Ex. B, Tr. 25, Tr. 49) He has daily contact with her via email, text, or telephone calls when she is in Cameroon. (Ex. 3) She is currently visiting him in the United States.

For nine or ten years, Applicant's father, a Cameroon national, was one of thirteen justices on the Supreme Court of the Republic of Cameroon and, at one time, was president of the high court. (Tr. 41). (Ex. 1, Ex. 2, Tr. 25, Tr. 39) When he turned 65 years old, he retired.³ (Ex. B, Tr. 40) While his father served on the Supreme Court, it was the highest court⁴ in the country. His father served as a judge in Cameroon in various positions for 40 years. (Tr. 38) Applicant has contact with his father twice a week via email, text, or telephone calls. (Ex. 3, Tr. 51) His parents receive pensions from the Cameroon government. (Tr. 66)

Applicant's parents have decided not to move to the United States because they would not be able to cope with the life style in the United States and because his father's arthritis would make winters in the United States unbearable for him. (Tr. 43) Applicant would consider the area they live in Cameroon to be "very dangerous." (Tr. 44) His mother visits him in the United States every two years and is currently visiting him, as previously stated. (Ex. 3, Ex. I) In March 2017, he applied for U.S. alien registration for his mother. (Ex. I-2, Ex. I-3, Tr. 25, Tr. 51) With alien registration, an individual must live in the United States six months out of the year, which is another reason he did not apply for alien registration for his father. (Tr. 52)

The SOR alleges Applicant has four charged-off accounts totaling \$23,175, three collection accounts totaling \$14,847, and he was \$16,599 past due on another account. The delinquent obligations totaled \$54,621. He alleges that after completing his MBA in 2003 and after he purchased his home, he started receiving letters stating he had purchased various goods, which he had not purchased. (Tr. 22, 29) When he located to a job on the other coast, the company reviewed his credit and he discovered many flags on his credit report. (Tr. 22) He disputed some of the accounts and made payments on others. (Tr. 22) In 2008 or 2009, Applicant asserts he was the victim of identity theft. (Ex. 2) He now employs two different credit monitoring services, neither of which are credit counseling services. (Ex. 2) The services are to notify him of any irregular activity, dispute fraudulent activity, and alert him if his credit is pulled. (Tr. 85) He has had the service for two years. (Ex. I, K)

In 2011, Applicant's wife became ill and stopped working. She has now returned to working. The home they own is located in another state and is rented to tenants. (Tr. 67) As of June 2015, Applicant owed approximately \$218,000 on investment real estate.

³ Exhibit A, written in French and not translated, states Applicant's father was due to retire because he was 65 years old. (Tr. 93)

⁴ Two or three years ago, Cameroon established a constitutional court, which supersedes the Supreme Court. (Tr. 37)

(Ex. 2) At the hearing, he asserted he owed \$209,000 on the property that has a fair market value of \$250,000. He has put down a deposit on a new home being built where they currently live. (Ex. F, Tr. 67) The new home costs \$460,000. (Tr. 69) He intends to keep his rental home after buying his new home. (Tr. 92)

The automobile debt listed in listed in SOR 1.a (\$10,928) appears on Applicant's January 2015 credit report. (Ex. 4) A previous automobile loan with the same lender was listed as "Pays as Agreed" with a high credit amount of \$26,276 and a current balance of \$21,784. The auto loan obtained in June 2011 required monthly payments of \$598 for 72 months. (Ex. 4) He had purchased a used BMW, which developed problems. He traded it in, and in September 2012, and purchased an Acura using the same creditor for the new auto loan. (Ex. I-5, Tr. 24)

In April 2016, Applicant could no longer afford the monthly car payments. (Ex. 3) Even though he had not missed any payments on the loan, he called the bank and had his car voluntarily repossessed. (Ex. 3) At the time of the repossession, Applicant asserted he owed \$18,000 on the loan and the vehicle was sold for \$11,000 following the repossession. (Ex. 3) In his July 2016 enhanced subject interview, he said he was in the process of setting up a repayment plan with the bank. In his July 2017 SOR response, he stated he was working on a resolution of this debt. His November 2016 credit report lists \$5,626 past due on a \$10,928 balance (SOR 1.a). (Ex. 6) At the hearing, he said he was working with the creditor to reach a settlement agreement on the debt. (Tr. 71) He was unsure when a settlement agreement would be reached. (Tr. 87) His May 2018 credit report reflects \$12,590 charged off as a bad debt. (Ex. I-5)

Applicant asserted he was unable to continue with payment on the loan because his wife had a large amount of medical bills. (Ex. 3) The nature of his wife's illness or the cost of treatment are not reflected in the record. (Tr. 88) He said he was able to satisfy all his other financial obligations.

During a June 2015 enhanced subject interview, Applicant stated that in 2002, a student loan (SOR 1.f, \$5,516) was opened in his name and his brother's name by an unknown person (Ex. 2) On his January 2015 Electronic Questionnaires for Investigations Processing (e-QIP) he stated the "loan was originated by my Brother," and Applicant was disputing the debt. (Ex. 1) He has disputed the loan since he found out about the loan in 2008 or 2009. (Ex. 2) In his April 2017 SOR Response, he denied the debt, but said he was working to resolve it. His January 2015 credit report states the account was opened in January 2002 with a high credit level of \$6,325 and a balance of \$7,374. The loan required monthly payments of \$60 for 196 months. (Ex. 4) In March 2012, a debt of \$5,516 was charged off. (Ex. 4) Applicant asserts this was his brother's student loan and does not know how or why it is attached to his credit report. (Tr. 78) This loan belongs to his brother living in Canada. (Tr. 81) Applicant never co-signed on any student loans. (Tr. 78)

Applicant admits he has a student loan with the same company to pay for his MBA education. That loan is current. (Tr. 78) His January 2015 credit report states the larger student loan status is "Pays as Agreed," and it had a \$33,307 balance. That loan required \$196 monthly payments for 300 months. (Ex. 4) His November 2016 credit report

indicates the balance on the larger student loans is \$30,510. (Ex. 5) As of December 31, 2017, the balance on the student loans was \$28,645. (Ex. I-4) His February 2018 credit report lists the balance as \$28,658 with no past-due amounts. (Ex. 6) His May 2018 credit report lists it as "current" with a balance of \$28,114. (Ex. I-5)

In Applicant's January 2015 e-QIP he stated he owed \$4,000 on a bank credit card (SOR 1.g, \$4,557). (Ex. 1) He stated, "I had a business in 2008 and as a result the business accumulated some debt which I was the guarantor [sic] and thus had to be liable." (Ex. 1) In his June 2015 interview he provided a different explanation of the charged-off credit card debt. In the interview, he said the credit card account was opened in January 2009 by an unknown individual as a result of identity theft. (Ex. 2) He told the investigator that he did not know why it stated that he had a business in 2008, and as a result of business debt accumulated, he was liable. (Ex. 2) He stated he did not know why the case papers stated this. He asserted it was a fraudulent account, but asserted he paid it in March 2011 "just because he wanted it off of his credit report." (Ex. 2)

Applicant's January 2015 credit report lists two bank credit card accounts with the creditor listed in SOR 1.g (\$4,557), which is the debt referred to in the previous paragraph. (Ex. 4) He asserts one account is his, and he paid it, and the other account is a fraudulent account. (Tr. 83) He asserted he could provide information on the account he paid. (Tr. 83) No documents showing the debt had been paid were received. Both accounts were at times delinquent. One account opened in May 2006 had a high balance of \$4,053 when it was closed by the grantor. (Ex. 4) The debt went to collection. The second account with the same creditor was opened in August 2007 and \$4,557 was charged off in September 2014. (Ex. 4) He asserted he contacted the creditor, and they removed it from his credit account. (Tr. 84) He provided no documentation supporting his assertion.

Applicant listed a federal credit union account debt of \$7,300 on his e-QIP stating he was disputing it and was working with a company to resolve the issue. (Ex. 1) The debt (SOR 1.e, \$13,263) was an automobile loan opened in September 2007 that required \$353 monthly payments for 72 months. (Ex. 4) The high credit on the loan was \$17,399. The delinquent obligation went to collection. (Ex. 4)

Applicant's January 2015 credit report lists two obligations to this federal credit union, one in the amount of \$13,263, listed as a collection account, and the other a \$7,300 account listed as "Pays as Agreed. The larger account was listed as "closed" and the smaller listed as "Account Closed by Grantor" and charged off. (Ex. 4) The credit report lists both debts as "Dispute Resolved – Consumer Disagrees." (Ex. 4) He asserts this was a fraudulent account, that he worked with the credit union, and they removed it from his credit report. (Tr. 76) He provided no documentation supporting his assertion.

The credit card debt in SOR 1.h (\$2,174) appears on Applicant's January 2015 credit report listing that \$2,174 had been charged off in December 2010. He asserts he reached a settlement with the creditor in 2011 and paid the debt. (Tr. 84) He provided no documentation supporting payment of the debt. He asserted he cannot "get a hold of the bank to validate my account status. But this account was paid in full." (Ex. I-6)

Applicant's November 2016 credit report lists a \$1,469 telephone service collection account (SOR 1.b) and a \$115 cable television collection debt (SOR 1.c). (Ex. 6) He asserted the telephone account debt was a fraudulent account. He has had numerous communications with the telephone company and asserts the telephone company agreed this was not his debt. (Tr. 72) His May 2018 credit report lists the account as closed and seriously past due date and assigned to a collection agency. (Ex. I-5) The debt also appears on his May 2018 credit report as closed and as a collection account. (Ex. I-5) As of August 2018, he was still working with the creditor to have the debt removed from his credit report. (Ex. I) The debt is not reported by one credit reporting agency. (Ex. I-5) The cable debt arose when he moved. The account was paid and shows a zero balance on his credit report. (Ex. I)

On Applicant's January 2015 e-QIP he listed \$16,000 owed to the creditor listed in SOR 1.d (\$16,599), but indicated it was caused by identity theft. On the e-QIP, he stated he was working directly with all creditors and collection agencies listed on his credit profile to fix any pending issues. He said he was doing so to make sure it does not happen again and also to make sure his credit profile is correct. (Ex. 1)

The past-due account listed in SOR 1.d (\$16,599) appears on Applicant's January 2015 credit report listing the account as being opened in November 2011. It was listed as being 120 days or greater past due and in collection. (Ex. 4) The credit report also lists the account as "Account in Dispute." In his June 2015 subject interview, he asserted this debt was a fraudulent account opened by an unknown person. (Ex. 2) At the hearing, he said, "I have no idea what this one – This one, too, was also a long time, and I just kept calling them and denying [responsibility and stating] that it wasn't⁵ my debt, and eventually, it was removed from my account." (Tr. 76) He provided no documentation supporting this assertion.

Applicant makes regular contributions to his 401(k) retirement plan and has a balance of approximately \$53,000 in the plan. (Ex. H, Tr. 68) His wife has approximately \$11,000 in her retirement plan. (Tr. 69) He has approximately \$31,000 in savings. (Ex. I-1Tr. 69) Over the past four years he has spent approximately \$30,000 working with his brother to develop a computer application. (Tr. 90) His May 2018 credit report lists a collection account with a zero balance. (Ex. I-5)

Prior to closing arguments, Applicant was again informed of the importance of providing documents to support his assertions of payment, settlement, or acknowledgement by the creditors that the delinquent obligations are not his. (Tr. 103)

Republic of Cameroon

French Cameroon became independent in 1960 as the Republic of Cameroon. The following year the southern portion of neighboring British Cameroon voted to merge with the new country to form the Federal Republic of Cameroon. The country has generally enjoyed stability, which has enabled the development of agriculture, roads, and

⁵ Applicant probably meant to say he kept calling them and denying it "was" his debt.

railways, as well as a petroleum industry. Political power remains firmly in the hands of the President.

The United States established diplomatic relations with Cameroon in 1960, following the independence of the French-administered part of the country. Cameroon has had just two presidents since independence. U.S. relations with Cameroon are positive, although from time to time they have been affected by concerns over human rights abuses and the pace of political and economic liberalization. Cameroon plays a key role in regional stability and remains a strong regional partner with the United States in countering terrorism in the Lake Chad Region. Cameroon is currently the United States' 124th largest goods trading partner.

International migration from Cameroon has been driven by unemployment (including fewer government jobs), poverty, the search for educational opportunities, and corruption. The United States and Europe are preferred destinations. Cameroon has a large youth population, with more than 60% of the populace under the age of 25.

The U.S. State Department warns U.S. citizens to avoid all travel to the North and Far North Regions and parts of the East and Adamawa Regions of Cameroon because of terrorist threats, the risk of violent crime, and civil unrest. (Cameroon Travel Warning, U.S. Embassy in Cameroon) Violent crime, such as armed robbery and carjacking, is common. Local police lack the resources to respond effectively to serious criminal incidents. In the North and Far North Regions, as well as parts of East and Adamawa Regions, terrorists may attack with no warning, targeting local facilities, and places frequented by Westerners. Kidnapping by terrorists and/or kidnapping for ransom are serious concerns in Cameroon.

In Northwest and Southwest Regions, an Anglophone separatist movement has led to increased levels of violence. Armed clashes with the government and other acts of violence have occurred. The Boko Haram terrorist group has actively targeted foreign residents, tourists, and government leaders in the North and Far North Region. The U.S. Embassy's ability to provide consular services in remote and rural areas of Cameroon is extremely limited and the U.S. Government has limited ability to provide emergency services to U.S. citizens.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching

adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the adjudication process is an examination of a sufficient period and a careful weight of a number of variables of an individual's life to make an affirmative determination that the individual is an acceptable security risk. This is known as the whole-person concept.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination of the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

Adjudicative Guideline (AG) ¶ 18 articulates the security concerns relating to financial problems:

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 . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

Additionally, an individual who is financially irresponsible may also be irresponsible, unconcerned, negligent, or careless in properly handling and safeguarding classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

A person's relationship with his creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts under agreed-upon terms. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a position of risk that is inconsistent with holding a security clearance. An applicant is not required to be debt free, but is required to manage his finances to meet his financial obligations.

AG ¶ 19 includes two disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts;" and "(c) a history of not meeting financial obligations." Security concerns are established under AG ¶¶ 19(a) and 19(c) because Applicant had eight delinquent debts which totaled in excess of \$54,000. The burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the security concerns. (Directive ¶ E3.1.15)

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive

presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

Applicant has the burden of establishing that matters in mitigation apply. One or more of the following conditions under AG ¶ 20 may apply:

(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 person has received or is receiving 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; 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.

It is incumbent on Applicant to provide sufficient documentation to support all mitigating claims or assertions he has made. This he failed to do. Other than payments on Applicant's student loans, he has failed to document any payment on the SOR delinquent obligations. In April 2016, Applicant voluntarily returned a vehicle to the creditor and incurred a \$10,928 debt (SOR 1.a). In July 2016, he said he was in the process of setting up a repayment plan. In his April 2017 SOR Response, he said he was working on resolving the debt. At the March 2018 hearing, he asserted he was working with the creditor to resolve the debt. He provided no documents supporting his communications with the creditor, a copy of a repayment plan, or evidence he has paid the debt.

Applicant asserted the telephone service debt (SOR 1.b, \$1,469) was a fraudulent account. He never provided any documentation establishing it was a fraudulent account or a copy of any police report asking the police to investigate the fraud. He asserted he had numerous communications with the telephone company and asserted the telephone company agreed it was not his debt. He never provided any documentation establishing the creditor agreed it was not his debt. As the debt appears as a collection account on his May 2018 credit report, and in August 2018, he said he was still working with the creditor

to have the debt removed from his credit report. The \$115 cable debt (SOR 1.c) was paid and is showing with a zero balance on his credit report.

On his January 2015 e-QIP, Applicant listed \$16,000 owed to the creditor in SOR 1.d (\$16,599) and he indicated it was a fraudulent account. On his e-QIP, he asserted he was working directly with all his creditors and collection agencies to fix any pending issues. At the hearing, he said he had no idea about the debt. He said he kept calling the creditor, he denied the debt was his, and it was removed from his credit account. He provided no documentation supporting the debt was fraudulent or documentation of contacting the creditor.

Applicant asserted the credit union auto loan (SOR 1.e, \$13,263) was also a fraudulent account. Again, he asserted he worked with the credit union lender, and it was removed from his credit report. He provided no documentation supporting the debt was fraudulent or documentation of contacting the creditor. He disputed the student loan debt (SOR 1.f, \$5,516) asserting it is his brother's student loan debt and claiming he does not know why it appears on his credit report. Applicant provided documentation showing he is making timely payments on his student loans. His credit reports lists his student loan as being paid as agreed with no past-due amounts and with a balance consistently being reduced.

On Applicant's January 2015 e-QIP, he stated he owed \$4,000 on a bank credit card due (SOR 1.g, \$4,557) to business expenses but stated during his June 2015 interview that the account was a fraudulent account opened by an unknown person. During the same interview, he said he paid the listed amount just to get it off his credit report. At the hearing, he asserted he contacted the creditor, and the debt was removed from his credit account. He provided no documentation supporting the debt was fraudulent, that he had paid the debt, or that he contacted the creditor. He asserted the credit card debt in SOR 1.h (\$2,174) had been paid, but provided no documentation showing payment.

Applicant presented some mitigating information. He asserted he was unable to pay some of his debts when his wife became ill and was unable to work. However, he failed to provide sufficient information as to the nature, cost of the treatment, length of the illness, or when it occurred. He has equity in a home he owns and rents. He is current on his student loan payments. He has \$53,000 in his retirement plan and \$31,000 in his savings account. He recently obtained a loan on a \$460,000 new home. Obtaining such a loan indicates that the lender is sufficiently satisfied that Applicant is a good credit risk. The household income, from his income and now that his wife has returned to work, is not a part of the record.

The mitigating factors in AG ¶ 20(a) do not apply because the debts are numerous and remain unpaid. AG ¶ 20(b) does not apply even though there are some factors that were beyond his control such as his wife's illness and his assertion of identity theft. Even if the delinquent obligations Applicant asserts to be fraudulent, there are other delinquent obligations that remain unpaid. The small amount of documented payments shows he has not acted responsibly under the circumstances to address his delinquent obligations.

For AG ¶ 20(c) to apply there must be financial counseling, and clear indications that the problem is being resolved or is under control, neither of which have not been documented.

In Applicant's January 2015 e-QIP, his June 2015 interview, his July 2016 interview, his April 2017 SOR Response, and at the hearing, he indicated he was attempting to establish repayment plans for some of the SOR delinquent obligations. Other than payment on his student loans, which was not a delinquent SOR obligation, and the \$115 cable bill, no payments had been made or evidence provided that repayment plans existed. Although Applicant denies certain SOR delinquent obligations, AG ¶ 20(e) does not apply because he has failed to document the fraudulent account assertions. AG ¶ 20(e) requires Applicant to dispute the legitimacy of the past-due debts and provide documented proof to substantiate the basis of the dispute or provide evidence of actions to resolve the issue. No documentation was received.

An Applicant is not required to be debt-free or to develop a plan for paying off all debts immediately or simultaneously, but he is required to act responsibly given his circumstances and develop a reasonable plan to address his delinquent obligations, accompanied by evidence of a serious intent to effectuate the plan. This has not been done.

Foreign Influence

AG ¶ 6 explains the security concern about foreign influence as follows:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

AG ¶ 7 indicates three conditions that could raise a security concern and may be disqualifying in this case:

(a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's

desire to help a foreign person, group, or country by providing that information or technology; and

(e) shared living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

In June 2012, Applicant became a naturalized U.S. citizen. He came to the United States as a student. He feared for his life in Cameroon and applied for political asylum in the United States. In 1997, he had been arrested for protesting against the Cameroon government. His wife and brother had also been arrested for political protesting. One of his cousins has been jailed indefinitely and Applicant has had friends killed by the police.

Applicant's wife and sister were born in Cameroon and are U.S. registered aliens living in the United States pending their U.S. citizenship. He anticipates his wife will become a naturalized U.S. citizen in 2020. His two children are U.S. residents, having been born in the United States. His one brother is a naturalized U.S. citizen and his other brother lives in Canada and is a Canadian permanent resident pending Canadian citizenship. Applicant feels loyalty to the United States and has no divided loyalty. Cameroon does not accept dual citizenship.

Applicant's mother is a Cameroon national who is a retired civil servant. In her mid-30 to mid-40s, she worked ten years as a meteorologist for the Cameroon government. His mother, who is currently visiting him, is a U.S. registered alien pending her citizenship. He has frequent contact with his parents in Cameroon. Applicant's father, a Cameroon national, is a retired justice of the Supreme Court of the Republic of Cameroon. His parents receive pensions from the Cameroon government.

Applicant's father-in-law is a Cameroon national, retired from the Cameroon railway services, and is now a fireman. Applicant has contact with his father-in-law by telephone twice a month. His wife has two siblings living in Cameroon and three living in the United States. However, the record is silent as to how much, if any, contact Applicant or his spouse have with his wife's siblings.

Applicant's ties with his parents living in Cameroon, are not, as a matter of law, disqualifying under Guideline B. However, if an applicant or his spouse has a close relationship with even one relative, living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

There is a rebuttable presumption that a person has ties of affection for, or obligation to, their immediate family members. See *generally* ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at *8 (App. Bd. Feb. 20, 2002). "[A]s a matter of common sense and human experience, there is [also] a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse." ISCR Case No. 07-17673 at 3 (App. Bd. Apr. 2, 2009) (citing ISCR Case No. 01-03120

at 4 (App. Bd. Feb. 20, 2002)). This concept is the basis of AG ¶ 7(e). Indirect influence from his parents and his spouse's father living in Cameroon could result in a security concern. See ISCR Case No. 09-05812 at 2 (App. Bd. Dec. 1, 2011) (finding presence in a country of close family members, viewed in light of that country's troubles with terrorism and its human rights abuses, and his sharing living quarters with a person (his spouse) having foreign family contacts, establish the "heightened risk" in AG ¶¶ 7(b) and 7(e)).

Applicant's relationship with his parents could create a concern about Applicant's "obligation to protect sensitive information or technology" and possibly his desire to help his parents living in Cameroon. It is possible intelligence officials or other entities in Cameroon wanting to expose Applicant to coercion, could exert pressure on his parents living in Cameroon. Applicant would then be subject to coercion through his parents and classified information could potentially be compromised. This is countered by him, his wife, brother, and cousin having been imprisoned by the Cameroon government for political protesting. Serving imprisonment for political protesting does not endear one to the government that imprisons him or her.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002).

While there is no evidence that intelligence operatives or terrorists from Cameroon seek or have sought classified or economic information from or through Applicant or siblings living in Cameroon, nevertheless, it is not possible to rule out such a possibility in the future.

AG ¶ 8 lists three conditions that could mitigate foreign influence security concerns including:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

AG ¶¶ 8(a) and 8(c) apply. Applicant has frequent contact with his parents living in Cameroon and less frequent contact with his father-in-law. His mother and father's past employment with the Cameroon government makes reviewing the foreign influence security concerns critical. Applicant's wife and siblings are not a security concern. His one brother is a U.S. naturalized citizen. His other brother is a lives in Canada and is a Canadian permanent resident pending Canadian citizenship. His wife, sister, and mother are U.S. registered aliens. There is little likelihood that his relationships with his wife or siblings could create a risk for foreign influence or exploitation.

AG ¶ 8(b) applies. A key factor in the AG ¶ 8(b) analysis is Applicant's "deep and longstanding relationships and loyalties in the U.S." Applicant has significant connections to the United States. Applicant, his children, and his brother are citizens and residents of the United States. His spouse, sister, and mother are registered aliens waiting to become naturalized citizens. He left Cameroon and received refugee status, as did his wife and siblings. In 2003, he received his MBA from an American university. He owns one home in the United States and his received a loan to purchase a second home in the United States.

Applicant's relationship with the United States must be weighed against the potential conflict of interest created by his relationships with family living in Cameroon. There is no evidence, however, that terrorists, criminals, the Cameroon Government, or those conducting espionage have approached or threatened Applicant or his siblings living in Cameroon to coerce Applicant for classified or sensitive information. While the U.S. Government does not have any burden to prove the presence of such evidence, if such record evidence were present, Applicant would have a heavier evidentiary burden to mitigate foreign influence security concerns.

In sum, Applicant has significant connections to the United States. He came to the United States at age 20 and is now 40 years old. The foreign influence security concerns are mitigated.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate an Applicant's security eligibility by considering the totality of the Applicant's conduct and all the relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines B and F in the whole-person analysis. Applicant's parents and father-in-law live in Cameroon. His wife, sister, and mother are U.S. registered aliens waiting for the permanent U.S. citizenship. His one brother is a naturalized U.S. citizen and his other brother is a Canadian permanent resident living in Canada pending Canadian citizenship. His children are U.S. citizens. The foreign influence security concerns are mitigated by Applicant's significant connections to the United States.

Applicant has a history of financial problems. He has known about the Government's concern about his finances since his June 2015 and July 2016 interviews, and the March 2017 SOR. The \$115 cable bill has been addressed and he is current on his student loan payments, which were not alleged as delinquent in the SOR. He asserts, but failed to document, he has been in contact with his creditors. He has not shown that he acted responsibly to address his delinquent debts. Applicant's failure to make greater progress resolving his SOR debts shows lack of financial responsibility and judgment and raises unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18. The issue is not simply whether all Applicant's debts are paid—it is whether his financial circumstances raise concerns about his fitness to hold a security clearance. See AG ¶¶ 2(a) and 2(b).

This decision should not be construed as a determination that Applicant cannot or will not attain the state of true reform and rehabilitation necessary to be eligible for a security clearance due to financial considerations. The determination of an individual's eligibility and suitability for a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. Under Applicant's current circumstances, a clearance is not warranted. In the future, Applicant may well demonstrate persuasive evidence of his security worthiness.

It is well settled that once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). After weighing the disqualifying and mitigating conditions and evaluating all the evidence in the context of the whole person, the unmitigated financial considerations security concerns lead me to conclude that grant of a security clearance to Applicant is not warranted at this time. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. In the future, with a track record of addressing his delinquent financial obligations, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

Formal Findings

Financial Considerations Security Concern:	AGAINST APPLICANT
Subparagraphs 1.a and 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraphs 1.d through 1.h:	Against Applicant
Foreign Influence Security Concern:	FOR APPLICANT
Subparagraphs 2.a through 2.d:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. National security eligibility is denied.

CLAUDE R. HEINY II
Administrative Judge