



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 18-02041  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Daniel O’Reilly, Esq., Department Counsel  
For Applicant: *Pro se*

02/14/2020

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**Decision**

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GARCIA, Candace Le’i, Administrative Judge:

Applicant mitigated the criminal conduct and personal conduct security concerns, but he did not mitigate the foreign influence security concerns involving his ties to Morocco. Eligibility for access to classified information is denied.

**Statement of the Case**

On September 17, 2018, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (foreign influence), Guideline J (criminal conduct), and Guideline E (personal conduct). The action was taken under Executive Order (Exec. Or.) 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 (AG) implemented by DOD on June 8, 2017.

Applicant responded to the SOR on September 21, 2018, and requested a hearing before an administrative judge. The case was assigned to me on March 7, 2019. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing

on July 2, 2019, scheduling the hearing for July 15, 2019. Applicant waived the 15-day-hearing-notice requirement set forth in E3.1.8 of the Directive. (Tr. at 6).

I convened the hearing as scheduled. I appended to the record as Hearing Exhibit (HE) I the Government's administrative notice request and accompanying source documents for Somalia. I admitted Government Exhibits (GE) 1, 3, and 4 in evidence without objection. GE 2 consists of interrogatories in which the Government inquired of Applicant whether he adopted the enclosed reports of investigation (ROI) summarizing two background interviews conducted by a DOD investigator on October 3 and December 18, 2017. Applicant indicated therein, and at the hearing, that he did not adopt the ROIs and therefore objected to them. I sustained Applicant's objection, admitted in evidence only pages 1-5 of GE 2, and did not admit in evidence the ROIs contained in pages 6-16 of GE 2. (Tr. at 23-30)

Applicant testified and submitted Applicant's Exhibits (AE) A through H, which I admitted in evidence without objection. At Department Counsel's request, I left the record open until August 5, 2019, to allow both him and Applicant the opportunity to submit a request for administrative notice on Morocco. By that date, I received Department Counsel's request for administrative notice on Morocco and marked it and the accompanying source documents as HE IV. I did not receive any additional documentation from Applicant. DOHA received the hearing transcript (Tr.) on July 22, 2019.

## **Procedural Ruling**

### **Request for Administrative Notice**

Department Counsel's requests that I take administrative notice of certain facts about Somalia and Morocco were included in the record as HE I and HE IV, as referenced above. Applicant did not object. I have taken administrative notice of the facts contained in HE I and HE IV, as summarized in the Findings of Fact, below.

### **Findings of Fact**

Applicant admitted all of the allegations except SOR ¶ 3.a, which he denied. Applicant's admissions are incorporated in my factual findings.

Applicant is 43 years old. He is a Moroccan-born citizen who immigrated to the United States in 2006. He became a naturalized U.S. citizen and was issued a U.S. passport in June 2011. As of the date of the hearing, he was single and did not have any children. (Tr. at 40-45; GE 1, 3; AE E, H)

Applicant graduated from high school in Morocco in 1997 and obtained a bachelor's degree there in 2002. He attended a community college in the United States from 2007 to 2012, but he did not earn a degree. In 2006, he received an offer to work as a linguist for a DOD contractor in Iraq, contingent on obtaining a security clearance. Meanwhile, he has worked primarily as a contract virtual linguist, but he was

unemployed as of the date of the hearing. He has never held a DOD security clearance. (Tr. at 7-10, 13, 36-46, 53-58, 113-114, 121-122; GE 1, 2; AE F, G)

All of Applicant's family live in Morocco. His mother, three brothers, and three sisters are citizens and residents of Morocco (SOR ¶¶ 1.a-1.c). His father passed away in approximately 2008. His mother is a 73-year-old housewife. His brothers are ages 52, 39, and 33. His 52-year-old and 39-year-old brothers are self-employed carpenters, and his 33-year-old brother works as a technician for a private company. His sisters are ages 48, 46, and 35. His 48-year-old and 35-year-old sisters are housewives, and his 46-year-old sister is an assistant at a private school. (SOR ¶ 1.h). Other than his 48-year-old sister, who is widowed, all of his siblings are married with children. He testified that none of his sisters' spouses have affiliations with the Moroccan government or military. (Tr. at 22, 58-72, 74-75, 78-79, 116-118; GE 1, 2, 3)

While Applicant indicated in his August 2017 security clearance application (SCA) that he communicated regularly with his brothers and sisters, he testified that his only contact with family in Morocco was with his mother and 33-year-old brother. They, along with his 33-year-old brother's wife and minor child, live together in an apartment Applicant purchased for his mother, as further discussed below. He speaks with his mother and 33-year-old brother almost daily, primarily through group chat on WhatsApp. He traveled to Morocco to visit his family and friends in approximately 2008, 2011, 2013, and for nearly three months in both 2016 and 2019. He testified that none of his family members in Morocco are aware that he is seeking a security clearance or that he has received an offer to work as a linguist for a DOD contractor. (Tr. at 16-17, 50-53, 58-72, 74-75, 91-93, 105, 112-114, 116-118, 125-126, 133-134; GE 1, 2, 3)

Applicant testified that he gave his mother money when he visited her in Morocco, and he also provided money to some family members so that they could visit her in Morocco when she was sick; however, he had not sent money to his mother in a long time. He clarified that his disclosure in his SCA that he provided financial support of \$6,000 annually to his mother (SOR ¶ 1.h) occurred only once, in approximately 2016. He testified that no family member in Morocco was relying on him for financial support as of the date of the hearing, as his siblings were financially independent. (Tr. at 58-72, 115-116; GE 1, 2, 3)

Applicant also has five cousins who are citizens and residents of Morocco: two are police officers (SOR ¶ 1.e), two serve in the Moroccan military, and one is retired from the Moroccan military (SOR ¶ 1.f). He testified and disclosed in his 2018 counterintelligence (CI) screening that his 56-year-old cousin retired from the Moroccan military in approximately 2009, and his last contact with this cousin was during his 2016 trip to Morocco; his 40-year-old and 34-year-old cousins began serving in the Moroccan military in 2000 and 2004, respectively, and his last contact with these cousins was in 2012 and 2002, respectively; and he was unaware of the ranks that all three cousins held in the Moroccan military but indicated that they served in the infantry. He also testified and disclosed in his CI screening that his 39-year-old and 34-year-old cousins were police officers in Morocco since 2007 and 2008, respectively, and his last contact with these cousins was in 2008 and 2002, respectively. (Tr. at 72-78, 118-119; GE 3)

Applicant has two childhood friends who are citizens and residents of Morocco, one of whom is a police officer (SOR ¶ 1.g). He testified that he had only occasional contact with the childhood friend in Morocco who is a police officer, and he last saw this friend during his 2019 trip to Morocco. He testified that he did not have any contact with his other childhood friend. (Tr. at 16-17, 75-78, 119-120; GE 1, 2, 3)

In approximately 2008, Applicant opened a bank account in Morocco (SOR ¶ 1.i). He testified that he did so to hold the money necessary for his land purchase, as discussed below. He estimated in his 2018 CI screening that the balance of this account was approximately \$9,000 USD. In late 2013, he purchased an apartment in Morocco for \$50,000 USD (SOR ¶ 1.j). He purchased the apartment for his mother to live. He intends to sell the property when his mother passes away and transfer the profit to the United States. In 2016, he purchased land in Morocco for \$30,000 USD (SOR ¶ 1.k). He did so as an investment, as he intends to build commercial property on the land and then rent or sell it. He testified that his land purchase was not a reflection of any loyalty to Morocco. As of the date of the hearing, his 33-year-old brother was overseeing and managing the development of the land, which consisted of construction of a coffee shop with an apartment on top. (Tr. at 16-17, 50-53, 58-72, 93-105, 109-112, 123-125; GE 1, 3)

Applicant's former girlfriend and ex-fiancée is a citizen of Somalia, and she has children living in Somalia (SOR ¶ 1.d). She is a 42-year-old permanent resident of the United States. He testified that she was never a citizen of Syria. He met her in approximately 2013 or 2014, when he worked for a refugee shelter in the United States in which she was a former resident, after she had fled Somalia at age ten to Saudi Arabia and then Syria before receiving refugee status to come to the United States. She has six children: three reside in the United States, two reside in Somalia, and one resides in Europe. He provided approximately \$3,000 in financial support to her parents, who are also citizens of Somalia (SOR ¶ 1.i). He testified that his relationship with her was on and off from approximately 2013 to 2017, as she became engaged to another individual in late 2015, and then yet again another individual in approximately 2019. He testified that he had no intentions of reuniting with his ex-fiancée, and he last had contact with her in approximately June 2019. He testified that he no longer had any ties to her, her parents, or any Somali citizen. (Tr. at 16-17, 20, 46-50, 79-91, 126-134, 152; GE 2, 3)

As of the date of the hearing, Applicant rented an apartment in the United States. He has a checking account in the United States with a balance of approximately \$30,000. He believed he has a retirement account in the United States related to a previous employer, but he was unaware of its value. He also owns a car. He testified that he has no intentions of returning to Morocco to live. He testified that he is loyal to the United States. He received a charter membership certificate in 2012 for his participation and contribution to the National Language Service Corps. He was presented a team player award in 2014. He was awarded a certificate of appreciation in 2015 in recognition for three years of service to a former employer. (Tr. at 46, 53-54, 66, 105-106, 112, 120-123, 134-135; GE 1; AE B, C, D)

## **CRIMINAL**

Applicant was arrested in December 2015 and charged with: (1) assault and battery (SOR ¶ 2.a); (2) stalking with reasonable fear of death, assault, etc. (SOR ¶ 2.b); (3) using profane or threatening language by means of telephone, cell broadcast, or text (SOR ¶ 2.c); and (4) causing a telephone to ring, with or without intent to talk, with intent to annoy (SOR ¶ 2.d). Applicant testified that his ex-fiancée, as discussed previously, reported him to the police in late 2015 after he questioned her upon discovering that she had gotten engaged to another individual. He pled guilty to the fourth charge and charges one through three were nolle prossed. He was sentenced to 180 days in jail, suspended, fined \$92, and ordered not have any contact with his ex-fiancée and her family. She obtained a two-year protective order against him in April 2016, which was dissolved by the court in May 2017 at her request. He does not have any other criminal-related incidents. (Tr. at 16-17, 54-56, 79-91, 106-109, 112, 114-115; GE 1, 2, 3, 4; AE A)

## **PERSONAL CONDUCT**

The SOR alleged that Applicant deliberately falsified his response to section 22 of his 2017 SCA, because he failed to list the assault and battery charge, as set forth in SOR ¶ 2.a, and the charge of causing a telephone to ring, with or without intent to talk, with intent to annoy, as set forth in SOR ¶ 2.d (SOR ¶ 3.a). Section 22 instructed that he report information regardless of whether the record in his case was sealed, expunged, or otherwise stricken from the court record, or the charge was dismissed. Section 22 also inquired whether, in the seven years prior to completing his SCA, he had been issued a summons, citation, or ticket to appear in court in a criminal proceeding against him; he had been arrested by any police officer, sheriff, marshal or any other type of law enforcement official; he had been charged, convicted, or sentenced of a crime in any court; or he had been or was at the time of completing his SCA on probation or parole. It also inquired whether he was at the time of completing his SCA on trial or awaiting a trial on criminal charges.

Applicant disclosed, in response to section 22 of his 2017 SCA, his April 2016 conviction for “cause telephone/pager to ring to annoy.” In so disclosing, he stated that he was in a relationship with his then girlfriend, the complainant, when she reported to the police that he was bothering her. He stated that the court issued a two-year protective order prohibiting him from having contact with his ex-girlfriend or her children. He also stated that she dropped the protective order in May 2017, after which time they resumed their relationship. (GE 1, 2)

## **Morocco**

The United States considers Morocco an important regional security, trade, and development partner, and Morocco is a designated Major Non-NATO Ally. It is a member of the U.S.-led Global Coalition to Defeat the Islamic State. In 2017, the United States and Morocco launched an “Initiative to Address Homegrown Violent Extremists” under the auspices of the multilateral Global Counterterrorism Forum.

In April 2019, the U.S. Department of State raised the travel advisory for Morocco to “Level 2: Exercise Increased Caution,” due to terrorism. Terrorist attacks targeting tourist sites, official Moroccan government facilities, and the U.S. Consulate and Public Affairs annex in Casablanca took place in Morocco in 2003, 2007, 2011, and 2018. Extremists claiming allegiance to ISIS targeted and murdered two Scandinavian tourists in the 2018 attack. In addition, while Morocco is viewed as one of the more stable countries in West Africa, protests reflecting grievances over the economy, governance, police brutality, and high-level cronyism and corruption have surged in the historically marginalized north and east since 2016.

## **Somalia**

The United States formally recognized the federal government of Somalia in January 2013. In July 2018, the U.S. Department of State issued a level 4 travel advisory for Somalia, advising U.S. citizens not to travel to Somalia due to terrorism, crime, and piracy. It also assessed Mogadishu as being a critical threat location for terrorist activity directed at or affecting U.S. Government interests. Violent crime is common throughout Somalia and no area is considered immune from violence, as the potential exists for hostile acts, either targeted or random, against foreign nationals at any time throughout the country. The U.S. Government cannot provide consular services to U.S. citizens in Somalia.

In March 2008, the U.S. Secretary of State designated Somali-based Al-Shabaab as a Foreign Terrorist Organization. The group remained active in Somalia throughout 2017. In what is believed to be the single deadliest attack of the group’s history in Somalia, Al-Shabaab detonated multiple bombs in Mogadishu in October 2017, killing more than 500 people. Somalia’s porous borders contribute to regional insecurity, as Al-Shabaab and others continue to move throughout the region mostly undetected. With little law enforcement cooperation between the federal government of Somalia and Somali state governments, the ability of U.S. law enforcement to investigate suspected terrorists, terrorist incidents, and kidnappings is hampered.

## **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 are to be used 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, administrative judges apply the guidelines 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 entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person,

past and present, favorable and unfavorable, in making a decision. The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.”

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 the 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 Exec. Or. 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B, Foreign Influence**

The security concern for foreign influence is set out in AG ¶ 6:

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. The following are potentially applicable 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

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

AG ¶ 7(a) requires substantial evidence of a "heightened risk." The "heightened risk" required to raise one of these disqualifying conditions is a relatively low standard. "Heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government.

As of the date of the hearing, Applicant credibly testified that he was no longer in a relationship with and did not have any contact with his former girlfriend and ex-fiancée who is a citizen of Somalia, or her parents who are citizens of Somalia, or any Somali citizen. He credibly testified that he had no intentions of reuniting with his ex-fiancée. AG ¶¶ 7(a) and 7(b) are not established as to SOR ¶¶ 1.d and 1.i, and I find SOR ¶¶ 1.d and 1.i in Applicant's favor.

Applicant's mother, six siblings, five cousins, and two childhood friends are citizens and residents of Morocco. In April 2019, the U.S. Department of State raised the travel advisory for Morocco to "Level 2: Exercise Increased Caution," due to terrorism. Applicant maintains daily contact with his mother and 33-year-old brother. He traveled to Morocco in approximately 2008, 2011, 2013, 2016, and 2019, to visit his family and friends. He gave his mother \$6,000 in approximately 2016, and he also gave her money when he visited her in Morocco five times between 2008 and 2019, as discussed above. In addition, Applicant's five cousins and one childhood friend are affiliated with either the Moroccan military or government, as previously discussed. Of



these individuals, Applicant most recently saw his eldest cousin, who is retired from the Moroccan military, during his 2016 trip to Morocco; he also saw his one childhood friend, who is a police officer, during his 2019 trip to Morocco. AG ¶¶ 7(a) and 7(b) are established as to SOR ¶¶ 1.a-1.c and 1.e-1.h.

Applicant also has assets in Morocco totaling approximately \$80,000. These include his bank account that he opened in approximately 2008, which had a balance of approximately \$9,000 USD as of his 2018 CI screening; his apartment that he purchased for \$50,000 USD in 2013 for his mother, and in which his mother, 33-year-old brother, and 33-year-old brother's family live; and his land that he purchased for \$30,000 USD in 2016, which he intends to use as an investment property. AG ¶¶ 7(f) is established as to SOR ¶¶ 1.j-1.l.

AG ¶ 8 provides conditions that could mitigate security concerns. The following are potentially applicable:

(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 United States;

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

(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; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

As previously stated, Applicant maintains daily contact with his mother and 33-year-old brother in Morocco and he visited them as recently as 2019. He saw his one childhood friend who is a police officer in Morocco during his 2019 trip there, and he saw his one cousin who is retired from the Moroccan military during his 2016 trip there. He also has significant assets in Morocco totaling \$80,000, to include the apartment in which his mother and 33-year-old brother live and the land that he purchased as recently as 2016, which he was developing as a commercial property as of the date of the hearing. In contrast, his assets in the United States total only \$30,000, and they consist primarily of a checking account and a car. Accordingly, I find that AG ¶¶ 8(a), 8(b), 8(c) and 8(f) are not established as to SOR ¶¶ 1.a-1.c, 1.e-1.h., and 1.j-1.l.

## **Guideline J, Criminal Conduct**

AG ¶ 30 expresses the security concern pertaining to criminal conduct as: “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.”

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. I considered the following relevant: “(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.” Applicant was convicted in 2016 of causing a telephone to ring, with or without intent to talk, with intent to annoy. AG ¶ 31(b) is established.

I have considered all of the mitigating conditions under AG ¶ 32 and considered the following relevant:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant’s criminal record consists solely of four charges from 2015 and his conviction in 2016 for one of those four charges, as previously discussed, stemming from his involvement with his former girlfriend and ex-fiancée. He credibly testified that he has no intentions of reuniting with this individual, and he does not have any other criminal-related incidents. I find that AG ¶¶ 32(a) and 32(d) apply.

## **Guideline E, Personal Conduct**

AG 15 expresses the security concern pertaining to personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

AG 16 describes conditions that could raise a security concern and may be disqualifying. I considered the following relevant:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;

Applicant disclosed his 2016 conviction in response to section 22 of his 2017 SCA. In so doing, he also explained the circumstances surrounding it, which stemmed from the same incident with his former girlfriend and led to the four charges brought against him in 2015. Though he failed to disclose all of the underlying charges, and specifically the charges in SOR ¶¶ 2.a and 2.d as alleged in SOR ¶ 3.a, I find that he did not deliberately omit them with the intent to falsify his SCA in light of the information he did disclose. As such, AG 16(a) is not established.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The 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 have incorporated my comments under Guidelines B, J, and E in my whole-person analysis. After weighing the disqualifying and mitigating conditions under these guidelines, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the criminal conduct and personal conduct security concerns, but he has not mitigated the foreign influence security concerns involving his ties to Morocco. Accordingly, I conclude he has not carried his burden of showing that it is clearly consistent with the national interest to grant his eligibility for access to classified information.

## Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraphs 1.a - 1.c, 1.e - 1.h, 1.j - 1.l:	Against Applicant
Subparagraphs 1.d, 1.i:	For Applicant
Paragraph 2, Guideline J:	FOR APPLICANT
Subparagraph 2.a - 2.d:	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

## Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Candace Le'i Garcia  
Administrative Judge