



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



In the matter of:)
)
) ISCR Case No. 19-02667
)
Applicant for Security Clearance)

Appearances

For Government: Nicholas Temple, Esq., Department Counsel
For Applicant: Scott Friedman, Esq.

08/04/2021

Decision

BENSON, Pamela C., Administrative Judge:

Applicant’s deep and longstanding relationships in the United States sufficiently mitigated the foreign influence security concerns raised from his connections with family members and associates in Somalia and Kenya. Applicant failed to mitigate the financial considerations security concerns arising from his defaulted student loans. He provided no evidence of communications with his student loan creditor, or of his good-faith efforts to resolve or arrange a payment plan and take significant action to implement the plan within the past decade. National security eligibility for access to classified information is denied.

Statement of the Case

On August 30, 2017, Applicant completed and signed his security clearance application (SCA). On November 25, 2019, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (Foreign Influence) and Guideline F (Financial Considerations). The action was taken under Executive Order (EO) 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 *National Security Adjudicative Guidelines* (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on February 21, 2020, and requested a hearing before an administrative judge. He admitted SOR allegations ¶¶ 1.a, 1.b, 1.c, 1.f, and 2.a, and he denied ¶¶ 1.d, and 1.e. He also provided notice that he had obtained the services of an attorney. On May 14, 2021, I e-mailed Applicant's counsel to schedule Applicant's hearing. The Defense Office of Hearings and Appeals (DOHA) issued the hearing notice on June 17, 2021, setting the hearing for June 30, 2021. The hearing proceeded as scheduled on the Defense Collaboration Services video-teleconferencing system.

Department Counsel submitted three documents, which I admitted into evidence as Government Exhibits (GE) 1, 2 and 3, without objection. Department Counsel submitted a request for administrative notice of facts concerning the nations of Somalia and Kenya, with supporting documents. I accepted the entire packet as Administrative Notice (AN) I, without objection. Applicant testified and submitted five documents that had been submitted with his SOR response, which I admitted as Applicant Exhibits (AE) A through E, without objection. DOHA received the hearing transcript (Tr.) on July 9, 2021.

Procedural Matter

Department Counsel requested that SOR allegation ¶ 1.a be withdrawn, which states: "Your father is a United States citizen, residing in Somalia." Applicant's father's death certificate December 2019, in the record, shows that this is no longer a security concern and this issue does not need to be addressed during the hearing. I granted the request with no objection. (Tr. 8; AE A)

Administrative Notice

Department Counsel offered summaries and supporting documentation for administrative notice concerning foreign influence security concerns raised by Applicant's connections to Somalia and Kenya. Applicant did not object to me taking administrative notice of facts concerning Somalia and Kenya, and I granted Department Counsel's motion.

I have taken administrative notice of the following facts:

Somalia

In 2012, Somalia was established as a federal parliamentary republic. The United States formally recognized the Federal Government of Somalia in January 2013. U.S. foreign policy objectives in Somalia are to promote economic and political stability, promote democratic reforms, oppose international terrorism, and alleviate humanitarian crisis caused by conflict and poor weather conditions.

The United States supports the success of the African Union Mission in driving Al-Shabaab, a terrorist organization, out of strategically important population centers. The United States provided more than \$3 billion in assistance to Somalia from 2006 to present.

The United States supports and works closely with Somalia to establish an effective and representative security sector including military, police, and justice officials.

The State Department has assessed Mogadishu as being a **CRITICAL**-threat location for crime directed at or affecting official U.S. government interests. Violent crime such as kidnapping, bombings, indirect fire attacks, murder, assassinations, armed robbery, carjacking, and illegal roadblocks by armed individuals in uniforms occur throughout Somalia, including in Mogadishu. The U.S. government cannot provide consular services to U.S. citizens in Somalia.

The terrorism situation in Somalia remains unstable and dangerous. No area in Somalia is immune from violence; the potential exists throughout the country for hostile acts, either targeted or random, against foreign nationals at any time.

Kenya

Kenya is a republic with three branches of government: a president, who is directly elected by the people; a bicameral parliament; and a judiciary. After an election which was disputed in Kenya's Supreme Court, President Kenyatta took office on November 20, 2017. The United States and Kenya have partnered in counterterrorism efforts.

The State Department advises to exercise increased caution when traveling in Kenya due to crime, terrorism, health issues, and kidnapping. Violent crime, such as armed carjacking, mugging, home invasion, and kidnapping, can occur at any time. Local police are willing but often lack the capability to respond effectively to serious criminal incidents and terrorists attacks.

In 2018, the most significant human rights issues in Kenya continue to include: unlawful and politically-motivated killings, forced disappearances, torture, and harsh and life-threatening prison conditions; impunity, arbitrary arrest and detention; an inefficient judiciary; arbitrary infringement of citizens' privacy rights; restrictions on press freedom and freedom of assembly; lack of accountability in many cases involving violence against women, including rape and female genital mutilation/cutting; and criminalization of same-sex sexual contact.

Findings of Fact

Applicant is 48 years old. He was born in Somalia. In 1991, a civil war broke out in Somalia, and Applicant's mother and younger brother were killed. He, along with other family members, escaped on a fishing boat in 1992. They were taken to a refugee camp in Kenya. In May 1996, when he was about 23 years-old, he and his family members were brought to the United States as Somalian refugees. (Tr. 20-21, 82-83; GE 1, GE 2, GE 3)

Applicant attended college in the U.S. from 1998 to 2004, and earned an associate's degree and a bachelor's degree in marketing. He became a naturalized U.S. citizen in 2003, and he married his wife, who is a dual citizen of Kenya and the U.S., in

2004. He has two children, ages six and eight. His children are U.S. citizens. He currently works for two different companies doing translations. In 2019, he earned approximately \$51,000 from his two employers, and his wife earned about \$105,000 as a registered nurse. In 2020, he only earned \$28,000 due to the lack of translation work from the immigration courts closure from the Covid-19 pandemic, and his wife earned about \$89,000. He is applying for a linguist position with a DOD contractor. His employment is contingent on him obtaining a DOD security clearance. (Tr. 20-22, 47, 75-77; GE 1, GE 2, GE 3)

Foreign Influence:

Applicant has three sisters. Two of his sisters are naturalized citizens and residents of the United States, and the third sister is a citizen of Sweden currently residing in the United Kingdom. He also has four brothers. Three of his brothers are naturalized citizens and residents of the United States, and his fourth brother is a citizen and resident of Somalia. This brother had previously been incarcerated in the United States for drug-related offenses, but in the Fall of 2020, he was deported to Somalia. Applicant saw his brother during his trip to Somalia in late 2020, after the death of his father. Applicant does not have a good relationship with this brother, and he does not want anything to do with him, to include continuing contacts or providing financial support. Applicant's two sisters and three brothers residing in the United States intend to remain in the United States, and they have no future intentions to visit Somalia. (Tr. 32-34, 53-56, 79-80; GE 1, GE 2, GE 3)

Applicant has numerous cousins who are citizens and residents of Somalia. Approximately four of these cousins receive financial support from Applicant and his family members about two or three times a year. It is usually related to a relief effort, and they have collectively sent much more money than \$3,650 since 2013, as alleged in SOR ¶ 1.c. The two or three times a year Applicant contributes money for his cousins usually range between \$100 and \$200 per occurrence. It is only on an "as needed" basis and Applicant does not maintain regular contact with these cousins. (Tr. 27-28, 35-36, 56-59, 80-81; GE 1, GE 2, GE 3)

Applicant has two friends who are citizens and residents of Somalia. He communicates with them on a casual, infrequent basis. For example, seven months may go by without any communication, and then all of a sudden, they may talk two-to-three times, followed by several months of no contact. Both of these friends are unaware that he is in the process of applying for a DOD security clearance, and neither of them are employed by the Somalian government. (Tr. 36-37, 59-62, 81-82; GE 1, GE 2, GE 3)

Applicant's friend's father became President of a federal state in Somalia in 2017. This individual is no longer in this political position. On one occasion in 2017, while Applicant was staying with his friend during a trip to Somalia, his friend's father asked Applicant to come with him and visit two foreign embassies. He wanted Applicant's assistance in the event he needed English translation while conducting business at the embassies. This was not an offer of employment, but a one-time request for assistance. Applicant did not provide any translation service for his father's friend on that particular

day. He was never asked to provide his assistance again, and he does not maintain contact with this individual. (Tr. 37-43, 63-64, 82; GE 1, GE 2, GE 3)

The final SOR allegation under Guideline B alleges that Applicant's mother-in-law and father-in-law are citizens and residents of Kenya. Since 2011, he and his spouse have provided approximately \$25,000 in financial support to them. Applicant testified that his mother-in-law is in the U.S. as a permanent resident. She is currently employed in a childcare facility. Applicant and his spouse do not always need to provide financial support to her because of her employment. Applicant's father-in-law is a citizen and remains a resident in Kenya. He intended to relocate to the U.S. a few years ago, but he had back surgery which required a recovery period, and then the Covid-19 pandemic prevented him from coming into the U.S. At the current time, Applicant and his spouse continue to provide monthly financial support to him, between \$100 and \$200 on an approximately monthly basis. His father-in-law still plans to relocate to the U.S. at some point in the future. (Tr. 28-29, 43-44, 64-66; GE 1, GE 2, GE 3)

In 2014, Applicant was approached by an associate to open a Somalian restaurant in Ethiopia. Applicant saw this as a promising business opportunity and invested \$3,500. He eventually lost his investment money as the restaurant never opened. In 2016, his friend's father, mentioned above, had a mining business in Kenya that needed to be reopened. Applicant and his friend were offered employment to resurrect the mining business. Applicant looked into this business prospect and was willing to relocate his family to Kenya if the business venture looked profitable. After evaluating the business, he realized that it did not have a favorable outlook and discarded the offer of employment. (Tr. 23-24, 44-46, 67-70, 82, 84; GE 1, GE 2, GE 3)

Applicant traveled to the United Kingdom, Somalia, and to Kenya twice in 2012. He traveled to Sweden for four months to visit his sister, the United Kingdom, Somalia, and to Kenya twice in 2013. In 2016, he traveled to Somalia and made two trips to Kenya, and in 2017 he traveled to Somalia and made two trips to Kenya once again. Some of Applicant's visits to Somalia and Kenya were extended stays. Applicant testified that he travelled to Somalia and Kenya in 2019 and in late 2020. He does not have any plans to visit Somalia in the future. He personally funded all of his trips overseas. (Tr. 24-27, 31; GE 1, GE 2, GE 3)

Financial Considerations

Applicant has approximately \$44,000 in student loans that were referred for collection. He testified that he attended college in the U.S. from 1998 to 2004, and took out these loans to pay for his education. He received an associate's degree in 2000, and earned his bachelor's degree in 2004. He began repaying his student loans after graduation, but stopped all payments in about 2007 after he lost his job. He called his student loan creditor and requested a loan forbearance due to unemployment, which was granted. (Tr. 46-49, 70-75; GE 1, GE 2, GE 3)

After Applicant found employment again, he made a request to the student loan creditor that his monthly payments be reduced due to limited income. This request was

denied, and eventually his student loans were referred for collection. Years passed and in about 2010, Applicant was told by the student loan creditor that he needed to rehabilitate his defaulted student loans by paying about \$470 a month for six months, and then his monthly payment would be reduced. He made approximately three monthly payments on his delinquent student loans, but then he was contacted by the student loan creditor and informed that he needed to increase his monthly payment as another student loan had been included in the student loan rehabilitation payment plan. Thereafter, Applicant stopped making all loan payments, and he has not made any student loan payments in the last decade. He admitted sending monetary support over the years to foreign family members, investing \$3,500 in a failed business venture, and travelling extensively overseas since defaulting on his student loans. (Tr. 46-51, 70-73; GE 1, GE 2, GE 3)

Applicant admitted that he had been contacted several times by different collection companies requesting payment over the years. He denied, however, any recent contacts from a creditor requesting payment for his defaulted student loans. Currently, Applicant stated that he is unable to determine who holds his defaulted student loans after a recent attempt to re-establish communication. He had a tax refund intercepted by the Federal government in about 2010, but after that time, he has received all of his tax refunds when eligible. Applicant stated that it is his intention to repay his defaulted student loans, but he did not provide details of his future plan of action, or when he anticipated making payments. He did not provide any documentation of his recent communications with student loan creditors. He does not have any other delinquent debts. (Tr. 46-51, 70-74; GE 1, GE 2, GE 3)

Applicant submitted three character reference letters with his response to the SOR. Overall, he is described as dependable, personable, caring, and a multi-tasker. He would be a great asset to any organization. (AE B, AE C, AE D)

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 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, 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(c), 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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and 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 as to 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 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 under AG ¶ 7 that could raise security concerns, and 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

(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.

There is a threat of terrorism and human rights violations in Somalia and Kenya. Applicant has ongoing connections with his father-in-law, cousins and friends, and he provides financial support to family members in both countries. Applicant's spouse has connections to her parents. Applicant's foreign contacts create a potential conflict of interest and a heightened risk of foreign exploitation, inducement, manipulation, pressure, and coercion, through his family members and friends. The above disqualifying conditions have been raised by the evidence.

The conditions that could mitigate foreign influence security concerns are provided under AG ¶ 8. The following are potentially applicable:

(a) contact, regardless of method, with a foreign family member, business 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; 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.

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. The distinctions between friendly and unfriendly governments must be made with caution. Relations between nations can shift, sometimes dramatically and unexpectedly.

There are widely-documented safety issues for residents of Somalia and Kenya because of terrorists and insurgents. The mere possession of close family ties with one or more family members living in these countries is not, as a matter of law, disqualifying under Guideline B; however, if an applicant 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 Generally ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

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 or inducement. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, the government ignores the rule of law including widely accepted civil liberties, a family member is associated with or dependent upon the government, the government is engaged in a counterinsurgency, terrorists cause a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. The relationship of Somalia and Kenya with the United States, and the hostile and dangerous situation in both countries place a significant, but not insurmountable burden of persuasion on Applicant to demonstrate that his and his spouse's relationships with family living in Somalia and Kenya do not pose a security risk.

Applicant has limited contact with his foreign cousins and friends, and he does not have any contact with his brother in Somalia. He maintains regular contact and financial support to his father-in-law in Kenya. Applicant's spouse did not prove the absence of contacts with her father living in Kenya. None of Applicant's family members have ever served in or been employed by the Somalian or Kenyan government or military. It is unlikely Applicant will be placed in a position of having to choose between the interests of foreign family members and the interests of the United States. AG ¶ 8(a) applies.

Applicant has lived in the United States for 25 years, including the entirety of his professional career and married life. He has been employed as a translator for many years. One of his professional associates praised his dedication, work performance, work ethic, and exemplary character. His wife has established her career as a registered nurse in the United States, and Applicant's two children are U.S. citizens by birth, currently attending school in this country. Applicant and his wife are fully acclimated to the American lifestyle. The majority of his siblings are naturalized U.S. citizens living in the United States. There is no conflict of interest given Applicant's deep and longstanding relationships in the United States. AG ¶ 8(b) applies.

AG ¶ 8(c) applies to Applicant's cousins and friends in Somalia since the contact is casual and infrequent, and there is little likelihood that it could create a risk for foreign influence or exploitation. It does not apply to Applicant's father-in-law in Kenya.

Based on the overall circumstances of Applicant's lengthy and deep connections to the United States and limited connections to Kenya and Somalia, I conclude foreign influence security concerns are mitigated.

Financial Considerations

AG ¶ 18 articulates the security concern for 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

AG ¶ 19 includes two disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(b) unwillingness to satisfy debts regardless of the ability to do so;" and "(c) a history of not meeting financial obligations." The SOR alleges defaulted student loan accounts totaling \$44,000. Applicant obtained these loans for his college education. He understood he was legally responsible to repay the loans. The above disqualifying conditions apply. Further inquiry about the applicability of mitigating conditions is required.

Five financial considerations mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit

counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; 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.

A debt that became delinquent several years ago is still considered recent because “an applicant’s ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions.” ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sept. 13, 2016)).

Clearance decisions are aimed at evaluating an applicant’s judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of every debt or issue alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan.

Applicant’s only delinquent debt involves his defaulted student loans that have been delinquent for a number of years. He is current on all of his other financial obligations. The facts show that Applicant traveled extensively overseas, he provided \$3,500 for a failed business venture, and he has provided, and continues to provide, financial support to foreign family members. He has not made a single voluntary student loan payment in the last decade. In 2019, he and his wife made over \$150,000 in annual income. During the pandemic in 2020, they made approximately \$117,000. Applicant stated that he does not have enough income to repay his student loans, and recently, he testified that he was unable to find his student loan creditor when he tried to re-establish communication.

In light of his travels, business investment, and ongoing financial support to family members, I find that repaying his student loans has not been a priority for Applicant. This six-figure income the last two years illustrates Applicant’s unwillingness to satisfy debts regardless of the ability to do so. He has failed to show that he has dealt with his student loan creditor responsibly, or that he established a good-faith effort to repay his financial education obligation. There is no evidence in the record that the problem is being resolved or addressed. Applicant’s promises to pay his student loans at some point in the future, without further confirmed action, fail to remove the lingering doubts that remain whether he has demonstrated the judgment, reliability, and willingness to abide by well-established rules and regulations that are required for granting a security clearance. I find that Applicant failed to mitigate the financial considerations security concerns.

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 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 Guideline B and Guideline F and the AG ¶ 2(d) factors in this whole-person analysis.

Applicant's deep and longstanding relationships in the United States sufficiently mitigated the foreign influence security concerns raised from connections with family members and associates in Somalia and Kenya. He failed to mitigate the financial considerations security concerns. The primary concern in this instance is that Applicant failed to take responsible action over a number of years to address his defaulted student loans, and while he offered some explanations for his conduct, those explanations do not adequately justify his long period of inaction.

Accordingly, Applicant has not carried his burden of showing that it is clearly consistent with the interests of national security of the United States to grant him 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:	FOR APPLICANT
Subparagraph 1.a:	Withdrawn
Subparagraphs 1.b - 1.f:	For Applicant

Paragraph 2, Guideline F:

AGAINST APPLICANT

Subparagraph 2.a:

Against Applicant

Conclusion

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

Pamela C. Benson
Administrative Judge