



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
 REDACTED) ISCR Case No. 19-01697
)
 Applicant for Security Clearance)

Appearances

For Government: Nicholas T. Temple, Esq., Department Counsel
For Applicant: Alan V. Edmunds, Esq.

04/26/2022

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant has mitigated the financial considerations security concerns by repaying his delinquent debts or reporting discharged debt as income on his tax filings. He has not fully mitigated the risk of undue foreign influence raised by family members who are Iraqi citizens and reside in countries of security concern. His pattern of false statements continues to raise personal conduct security concerns. Clearance eligibility is denied.

Statement of the Case

On May 20, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F, financial considerations, Guideline E, personal conduct, and Guideline B, foreign influence. The SOR explained why the DCSA CAF was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DCSA CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for*

Access to Classified Information or Eligibility to Hold a Sensitive Position (AG) effective within the DOD on June 8, 2017.

Applicant responded to the SOR through his counsel on June 10, 2021. He requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On September 23, 2021, Department Counsel indicated the Government was ready to proceed to a hearing. On October 7, 2021, the case was assigned to me to determine whether it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant. I received the case file and assignment on October 12, 2021. Scheduling the hearing was delayed due to COVID-related travel and duty restrictions.

After some coordination with the parties, on March 2, 2022, I scheduled a video teleconference hearing to be held via Microsoft Teams on March 29, 2022. At the hearing, the Government withdrew the Guideline F allegations in SOR ¶¶ 1.b-1.f. Nine Government exhibits (GEs 1-9) and 23 Applicant exhibits (AE A-W) were admitted in evidence without any objections. A March 10, 2020 SOR, which may not have been issued by the DCSA CAF but which is identical to the May 20, 2021 SOR but for the date, was marked as a hearing exhibit (HE 5) at Applicant's request. Applicant testified, as reflected in a hearing transcript (Tr.) received by DOHA on April 6, 2022.

The Government submitted four separate requests for administrative notice concerning Iraq (HE 1), Turkey (HE 2), Egypt (HE 3), and the United Arab Emirates (UAE) (HE 4), which I marked as hearing exhibits (HE). Applicant confirmed through counsel that he received the Government's requests for administrative notice with extracts of the source documents, and he had no objection to any of the facts proposed for administrative notice with respect to Iraq, Turkey, Egypt, or the UAE.

Pursuant to my obligation to take administrative notice of the most current political conditions in evaluating Guideline B concerns (see ISCR Case No. 05-11292 at (App. Bd. Apr. 12, 2007)), I informed the parties of my intention to take administrative notice of the facts requested by the Government with respect to Iraq, Turkey, Egypt, and the UAE, subject to the reliability of the source documentation and the relevance and materiality of the facts proposed.

I held the record open for ten days after the hearing for Applicant's counsel to proposed facts for administrative notice. Applicant did not propose any facts for administrative notice by the deadline, but he submitted on April 8, 2022, two documents, which were accepted into evidence as AEs X and Y without objection. The record closed on April 11, 2022, on receipt of the Government's position with respect to AEs X and Y.

Administrative Notice

At the hearing, the Government's Request for Administrative Notice – Republic of Iraq (HE 1), dated March 22, 2022, was based on 11 U.S. government publications: six from the U.S. State Department; two from the U.S. Congressional Research Service; one

from the U.S. Department of Defense; one from the Office of the Director of National Intelligence; and one from the U.S. Department of Homeland Security. The Government's Request for Administrative Notice – Republic of Turkey (HE 2), dated March 22, 2022, was based on six publications from the U.S. State Department. The Government's Request for Administrative Notice – Arab Republic of Egypt (HE 3), dated March 25, 2022, was based on ten U.S. government publications: five from the U.S. State Department, including one from the U.S. Embassy in Egypt; one from the Central Intelligence Agency; two from the U.S. Justice Department; one from the Office of the Director of National Intelligence; and one from the U.S. Mission to International Organizations in Geneva. The Government's Request for Administrative Notice – United Arab Emirates (HE 4), dated March 25, 2022, was based on ten U.S. government publications: five from the U.S. State Department; one from the Central Intelligence Agency; three from the U.S. Commerce Department; and one from the U.S. Justice Department. The most salient facts administratively noticed are set forth below.

Summary of SOR Allegations

The amended SOR alleges under Guideline F that Applicant owed delinquent debts totaling \$8,848 on four accounts (SOR ¶¶ 1.a, 1.b, 1.g, and 1.h). Under Guideline E, the SOR alleges that Applicant was arrested for simple assault in April 2015 for punching his wife (SOR ¶ 2.a); was terminated from a job in November 2015 after punching another employee (SOR ¶ 2.b); lied to his then employer in 2017 on three separate occasions (SOR ¶ 2.c-2.e); and falsified his March 2018 Electronic Questionnaire for Investigations Processing (hereafter SF 86) by failing to disclose a residence (SOR ¶ 2.f) and employment terminations for cause from three different employers (SOR ¶¶ 2.g-2.i).

Under Guideline B, the SOR alleges that Applicant's mother (SOR ¶ 3.a), a brother employed by the Iraqi government (SOR ¶ 3.b), and two of his sisters (SOR ¶ 3.d) are resident citizens of Iraq; that two of his brothers (SOR ¶ 3.c), one of whom he has supported financially, and four of his sisters (SOR ¶ 3.e) are citizens of Iraq residing in the UAE; and that a sister who he has supported financially is a citizen of Iraq residing in Egypt (SOR ¶ 3.f). Additionally, the SOR alleges that Applicant's father-in-law, who was a police officer for the Iraqi government from 1986 to 2005 (SOR ¶ 3.g), mother-in-law (SOR ¶ 3.h), and two sisters-in-law (SOR ¶ 3.i) are resident citizens of Iraq, who with the exception of one sister-in-law, have received financial support from Applicant; and that Applicant has three brothers-in-law who are citizens of Iraq residing in Turkey (SOR ¶ 3.j).

When Applicant responded to the SOR allegations, he denied all of the Guideline F and Guideline E allegations without explanation. He admitted the Guideline B allegations with some clarifications. He explained that his mother died of COVID-19 in April 2020. He stated that he has had no communications with his siblings in Iraq and the UAE or with his father-in-law in Iraq since he began working as a linguist and that he has had no communications with the other members of his spouse's family since 2019. As for his sister in Egypt, Applicant explained that this sister raised him, and that he did not support her financially but sent her small monetary gifts on special occasions, such as birthdays,

holidays, and her son's graduation. He added that he ceased this practice on going to work as a linguist for the U.S. military.

Findings of Fact

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 42-year-old naturalized U.S. citizen who was born in Iraq. (GE 1.) He applied for a DOD security clearance in March 2018 for work, as needed, as a contract linguist for the U.S. government. (GE 1.) He served as a translator from January 2019 until October 2021, including on training missions overseas from November 2019 to June 2020 (AEs T-U; Tr. 84.) In October 2021, he was laid off, but another company is holding a linguist position for him should his clearance be adjudicated favorably. (Tr.84-85.) He works in the civilian sector as a team lead on second shift for a manufacturer where he earns about \$60,000 annually. (AE P; Tr. 39.) His spouse works as a machine operator in the United States and earns about \$24,000 annually. (Tr. 39-40.)

Applicant and his spouse, also a native of Iraq, married in Iraq in March 2004. (GE 1; AE I; Tr. 40.) They had their first child, a daughter, in April 2005. (GE 1.) They fled Iraq for Syria in May 2006. (GE 3.) After waiting two years for a decision on their application for refugee status, Applicant, his spouse, and their daughter immigrated to the United States as refugees in April 2009. (GE 2.) Their second child, another daughter, was born in the United States in June 2009. (GE 1; AE J.) Applicant and his spouse became naturalized U.S. citizens in June 2014 (AE I), and obtained their U.S. passports in July 2014. (AE K.) Applicant indicated on his SF 86 that he is solely a citizen of the United States since renouncing his Iraqi citizenship and surrendering his expired Iraqi passport to his employer of his own free will in February 2018. (GE 1.) He stated, in part:

I recognize that not renouncing citizenship could pose questions as to my loyalty to the United States. I willingly renounce any and all allegiance to previous country of citizenship, surrender my active/expired passport(s) and pledge my loyalty exclusively to the United States of America. I take these actions to demonstrate my loyalty to the United States and my responsibility to protect sensitive information and those sensitive circumstances that I may encounter as I carry out my duties and responsibilities to the UNITED STATES OF AMERICA. (GE 1.)

Applicant asserts that he completed paperwork to formally renounce his Iraqi citizenship when he was offered a position as a contract linguist. (GE 2.) He provided no documentation indicating that Iraq no longer considers a citizen of Iraq. Applicant's spouse and his 16-year-old daughter are dual citizens of Iraq and the United States (GE 1) while his 12-year-old daughter is a citizen solely of the United States. (GE 1; AE J.)

During the course of his background investigation, Applicant underwent a counterintelligence security screening (CSS) interview in February 2018. (GEs 3-4) On

March 19, 2018, and on May 3, 2018, he had personal subject interviews (PSI) with an authorized investigator for the Office of Personnel Management (OPM). Substantive facts about his finances, personal conduct, and foreign contacts disclosed on his SF 86, during the CSS interview and PSIs, on forms completed for the CSS, or otherwise revealed during the course of his background investigation and the adjudication process follow.

Financial Considerations

On February 22, 2018, Applicant completed a Personal Financial Statement for his CSS. He estimated that he had positive net income of \$532 per month after paying his monthly expenses, but he did not list any payments towards eight charged-off credit-card accounts totaling \$27,037 and two collection accounts totaling \$251. (GE 4.) When interviewed during his CSS, he described his credit as “messed up.” He indicated that his spouse handled “that stuff,” and she was fixing it. He explained that he became delinquent on several accounts because he quit a job and was not able to find employment at a sufficient income to settle his bills. (GE 3.) He quit several jobs in 2017, some lasting as little as three or four days, because he did not like the work. He derived some income from self-employment as an Uber driver. (GE 1.)

On his March 2018 SF 86, Applicant listed nine outstanding charged-off credit-card accounts totaling \$27,080 and two accounts totaling \$251 in collections status. He attributed the debts to being laid off and stated that he would pay them when he had permanent employment. (GE 1.)

As of March 6, 2018, Applicant’s credit report listed four debts totaling \$11,459 that had been charged off between January 2016 and May 2016, including the debt in SOR ¶ 1.a charged off for \$4,396 in January 2016; five accounts in collections totaling \$5,363, including the debt in SOR ¶ 1.h unpaid since January 2016; and a credit-card account balance of \$2,519 past due 120 days (SOR ¶ 1.g) as of January 2016. Applicant had paid off several car loans on time over the years, including a \$2,614 loan for a motorcycle purchased in October 2013 that he paid off in April 2015. He was making timely payments of \$232 a month on a mortgage loan obtained for \$47,200 in August 2012. (GE 7.)

During his March 2018 PSI, Applicant described his financial situation as favorable, as he had approximately \$20,000 in savings in a safe deposit box in a bank. Most of the funds came from cashing in a 401(k) in 2015. When asked about his unresolved delinquent debts, Applicant readily admitted the debts that were on his credit report, and explained that he had established plans to repay three of his past-due debts listed on his SF 86 for \$43, \$7,333, and \$3,030 but not alleged in the amended SOR. He admitted during his PSI that he intentionally defaulted on his past-due accounts because his spouse had an affair in 2015 and he wanted to save money for an attorney in case he and his spouse separated. (GE 2.) He now asserts that his financial problems were due to lack of income when his only source of income was as an Uber driver. (Tr. 44.)

When asked about his finances during his May 2018 PSI, Applicant indicated that he was in the process of resolving all of the debts discussed during his previous interview.

He asserted he was making a minimum payment of \$25 on most of his debts and was adamant that he would pay off his debts if offered a linguist position. (GE 2.)

On April 9, 2019, Equifax reported that Applicant owed balances of \$4,396 (SOR ¶ 1.a), \$2,519 (SOR ¶ 1.g), and \$545 (SOR ¶ 1.h) on delinquent credit-card accounts; \$176 for a medical debt in collection (not alleged); and a \$59 cable bill in collection (not alleged). Five credit-card debts totaling \$12,290, including the debt in SOR ¶ 1.a, had been settled for less than their full balances between March 2018 and April 2019. (GE 8; AEs A-E.) Applicant testified that he received an IRS Form 1099-C Cancellation of Debt for the debt in SOR ¶ 1.a and reported the amount of the cancelled debt on his income tax return for tax year 2019. (Tr. 44, 67.) The delinquency in SOR ¶ 1.g was still on Applicant's credit report as of March 2022. (GE 9.) The creditor discharged \$1,436 of Applicant's debt in 2019. (AE F; Tr. 67-68.) Applicant asserts that he paid the remainder of his debt in settlement and reported the \$1,436 as income on his tax return for tax year 2019. (Tr. 44, 68.) Applicant settled the collection debt in SOR ¶ 1.h for less than its full balance. He made three monthly payments of \$152.79 between September 2019 and November 2019. (AE G.)

In October 2019, Applicant obtained a \$2,000 loan from a credit union. He made timely payments and paid it off in April 2021. In December 2019, Applicant and a co-obligor leased a car. They made timely payments on the \$17,830 debt at \$495 a month, and the lease was terminated early in November 2021. (GE 9.)

On April 30, 2021, Applicant and his spouse sold their then residence for \$130,000. (AE M.) In July 2021, he and his spouse purchased their current home for \$370,000. They obtained a real estate mortgage for \$324,175. (AEs O, S; Tr. 47.) As of March 2022, they were making their monthly payments of \$2,145 on time. (GE 9.)

Applicant earned gross income from linguist duties of \$44,028 and from his work as a machine operator for a local company \$18,283 in 2021. He reported wage income of \$18,283 on his income tax return for tax year 2021. (AE P.) He has had some financial counseling in March 2022. (AE W.)

Personal Conduct

Applicant was arrested on April 26, 2015, and charged with domestic-related simple assault with physical contact, a class A misdemeanor (SOR ¶ 2.a). (GEs 1-3.) His spouse obtained a protective order against him. The charge was *nolle prossed* on October 26, 2015. (GE 5.) On his petition, the record of the arrest and charge was annulled by the state. (AE H.) He listed the charge on his SF 86. (GE 1.) He indicated during his CSS interview that he had argued with his spouse; that he was arrested for simple assault for physically restraining his spouse in front of the police; and that his spouse did not press charges, which led to the charge being dismissed. (GE 3.) During his March 2018 PSI, Applicant stated that he was arrested for assaulting his wife and paid \$40 bail to be released. He reportedly told the investigator that his spouse admitted she had had an affair with an American and that he "snapped" and punched her in the face and chest for about

15 to 20 minutes. He volunteered that the police were called to his residence by a neighbor some three or four times because of arguments he had with his spouse, but he also asserted that the police made his wife say that he hit her more than he did. He explained that he had thought it was okay to hit his spouse because she had violated their marriage. (GE 2.) He now denies that he was arrested; that he physically struck his spouse; or restrained her in any way apart from hugging her. (Tr. 47-48, 83.) He testified on cross examination about the incident involving his spouse, as follows:

That was when I was yelling. And that's why the neighbor called the police. It was arguing and yelling. I didn't do anything to her. And she didn't show up at the court, and the case got dismissed. If something happened, she would show at the court and she'd do something to me. And here we go again. We're still here and we love each other. And we just bought a house, and we have a nice life. (Tr. 82.)

During his February 2018 CSS interview (GE 3), and on his March 2018 SF 86 (GE 1), Applicant listed his job placements rather than the staffing agency that paid him. With respect to each of these employments, including seasonal and temporary jobs, Applicant responded negatively to SF 86 inquiries into whether he was fired; quit after being told he would be fired; left by mutual agreement following charges or allegations of misconduct; or left by mutual agreement following notice of unsatisfactory performance. (GE 1.)

Applicant reported on his SF 86 that he worked as a machine operator for a company for three days in July 2015 [sic] and that he left because he did not like the job (SOR ¶ 2.i). Records of the staffing company that placed Applicant and paid him indicate that Applicant called in sick on April 1, 2015, and again on April 2, 2015. When contacted by his supervisor on April 2, 2015, Applicant indicated that he could not return to work and hung up on his supervisor. He was placed in an inactive status for not showing up to work. (GE 6.) When asked about that job during his March 2018 PSI, he explained that he left without notice. He did not like the job and did not believe that he had to call in his resignation. (GE 2.) He testified at his hearing that he could not work in the environment and that he left by mutual agreement. (Tr. 56.)

In June 2016, Applicant worked for a couple of days for a company in its warehouse. He quit without notice because he did not like the position. (GE 2.) The SOR alleges, and Applicant denies, that he was terminated for being a "no show" (SOR ¶ 2.g). No record was provided in evidence to prove that he was fired.

The SOR alleges that Applicant was terminated from his employment with a package shipping company in November 2015 (SOR ¶ 2.b) for punching a co-worker in the face (SOR ¶ 2.h). During his CSS interview (GE 3) and on his SF 86 (GE 1), Applicant reported that he worked a temporary job for a package delivery company in its warehouse from April 2015 until January 2016, and he left when the job was completed. The OPM investigator who interviewed Applicant in March 2018 reports that Applicant stated that, in November 2015, he punched a co-worker in the face, and that the police came to talk with him about it. Applicant was adamant that he was not fired. However, he admitted to the

investigator that he had left the job when he was informed by the staffing agency that he would not be welcomed back to the company because of his behavior towards the co-worker. He explained that after the co-worker used an expletive towards him, he punched the co-worker in the face in defense. In July 2019, by way of interrogatories, Applicant was given the opportunity to review the report of his March 2018 PSI, which contained the admission by him that he had punched the co-worker in the face. Applicant indicated, "I didn't punched [sic] my co-worker. I just put my hand on his shoulder and ask him if what he said was for me but he didn't respond to me then I let him go." (GE 2.) Applicant currently denies that he punched the co-worker and asserts that he just walked out, told the staffing company that he was not going to work there any longer, and was placed as a warehouse worker with another company the next day. (Tr. 48-49, 55.) On cross examination, he stated that he argued with the co-worker but never hit him. (Tr. 79-80.)

Applicant indicated during his CSS interview (GE 3) and on his SF 86 (GE 1) that he worked as a material handler for a tool and die company from January 2016 to March 2017, but also that he had overlapping employment for a few weeks in January 2017 with an aerospace and defense company. Investigative checks revealed that he was paid by a staffing company (company X) and was placed as a temporary worker with the tool and die company. He indicated on his SF 86 that he left the job when it ended. He discrepantly admitted during his March 2018 PSI that he quit that assignment without warning because he did not like the tone of his supervisor. (GE 2.)

During his May 2018 PSI, Applicant was asked about developed information concerning reprimands he had received while in company X's employ, including for taking time off in January 2017 for the stated reason that his spouse was leaving him because he was not home (SOR ¶ 2.c). Applicant admitted to the OPM investigator that he had lied to his supervisor because he did not like the job, wanted her to think he was too upset to work, and wanted the supervisor to give him a new assignment. (GE 2.) He now claims that he was misunderstood, and that the issue was that his spouse did not like his work hours. (Tr. 49.)

Applicant's employment file with company X reflected that he resided in Iraq from late March 2017 to early November 2017, and that he had told his supervisor that he had moved to Iraq to work on his marriage (SOR ¶ 2.d). Applicant explained during his May 2018 PSI that he had lied to his supervisor because he sought other employment and did not want her to be upset with him because he might need another assignment from the staffing company in the future. (GE 2.) He characterized it as "a white lie," when asked about it during direct examination at his hearing. He explained that it did not hurt anyone, and he wanted to keep his options open with the agency for a future job. (Tr. 50-51.) On cross examination, Applicant recalled having said "a little white lie" to the staffing company in 2018 so that he could keep the job (Tr. 77.)

In January 2018, Applicant was placed by staffing company X in an assembly position with his current civilian employer. (Tr. 52, 77-78.) Applicant took leave from work for two weeks in February 2018. He told company X that he went to Iraq for the funeral of his brother, who he claimed had died in an explosion (SOR ¶ 2.e). During his May 2018

PSI and at his hearing, Applicant admitted that it was a lie as he needed the time off for training with a defense contractor. (GE 2.) The evidence shows that he took the leave for his February 2018 CSS for a linguist position. He explained during his May 2018 PSI that he did not want his supervisor at company X to know that he was seeking employment elsewhere. When asked by the OPM investigator whether his supervisor knew that he lied to her, he responded negatively, described himself as “a good liar,” and stated that it was okay to tell “white lies.” (GE 2.) He now asserts that he will not make a false statement or tell “a white lie” in the future. (Tr. 78.)

On his SF 86 and during his March 2018 PSI, Applicant indicated that he had owned his then-residence since June 2012. He listed no other residences in the last ten years and said during his March 2018 PSI that all was going well at that residence. (GEs 1-2.) During his May 2018 PSI, Applicant was asked any unreported residences in the previous ten years. He responded negatively and asserted that all information about his residences was accurate (SOR ¶ 2.f). Investigative checks revealed that a complaint had been lodged with the police in April 2016 for “theft of services.” Applicant’s children were still attending school in the district but no longer living there. A police officer went to Applicant’s listed residence and discovered that it was being rented out. After hesitating, Applicant explained that he and his family rented an apartment in another locale from February 2016 to approximately November 2016 as he wanted to leave his house because he was tired of the police “harassing” him. He explained that he thought his children could still attend school in the district because he still owed the apartment there. As to why he did not accurately report his residency in 2016, Applicant responded that he “was not lying.” He denied any intentional falsification. When given the opportunity to review the report of his May 2018 PSI, Applicant admitted that he had lived at the unlisted apartment but had not reported it because he had not completed a change of address form and received his mail at the apartment that he owned and had rented out in 2016. (GE 2.) He reiterated at his hearing that he misunderstood the question and did not submit a change of address form, so he considered it his legal address. (Tr. 52-53, 74-75.)

Foreign Influence

Applicant’s and his spouse’s family members are all Iraqi citizens. Applicant’s father and mother were Iraqi resident citizens until their respective deaths in 1990 and April 2020. (GEs 1-2, 4; Tr. 56.) An older sister born in 1959 was an Iraqi citizen at the time of her death in 2013. (GE 4.)

Applicant has ten living siblings (hereafter identified as sisters 1 through 7 and brothers 1 through 3). As of his CSS in February 2018, sisters 1 and 5 were housewives in Iraq. Sisters 3, 4, 6, and 7 were living in the UAE where only sister 3 was employed outside the home. She was working as an elementary schoolteacher in the UAE. Sister 2 was a housewife in Egypt. Applicant indicated that he had monthly contact via social media with his sisters, except for sister 2 in Egypt with whom he had daily contact by social media, and sister 7 in the UAE with whom he had weekly contact via a social media application. Brother 1 lived in Iraq and was employed in human resources for a ministry of the Iraqi government since 1994. Brothers 2 and 3 resided in the UAE, where brother 2 was a self-

employed car merchant and brother 3 was a maintenance supervisor for a company. Applicant indicated that he had monthly contact via social media with his brother in Iraq and weekly contact via a social media application with his brothers in the UAE. (GE 4.)

Applicant's spouse's parents and her two sisters (spouse's sisters 1 and 2) are resident citizens of Iraq. Her three brothers (spouse's brothers 1 through 3) are Iraqi citizens living in Turkey. As of February 2018, her father worked as an Uber driver in Iraq. He had worked for the Iraqi government as a member of its police force from 1986 to 2005. Her mother and sisters were not employed outside the home. Applicant indicated on his CSS forms that he had weekly contact with his spouse's father and her sister 1, monthly contact with her mother, and daily contact with her sister 2 via social media or a social media application. He reported monthly contact via social media with his spouse's brothers in Turkey. Her brother 1 worked in a laundry while her brothers 2 and 3 were self-employed building contractors. (GE 4.)

During his CSS interview, Applicant was asked whether he had family ties to anyone who belonged to or supported an organization or activity that advocates violence, the threat of violence, or the use of force to achieve its goals. Applicant responded negatively but added "you never know, maybe they hid it from me." Applicant answered affirmatively to an inquiry into whether he had provided assistance, gifts, money, or other items of value to non-U.S. persons or entities. He responded that, between 2010 and 2018, he sent approximately \$2,400 to his father-in-law, \$1,200 to his mother-in-law, and \$750 to his spouse's sister 2 in Iraq for their living expenses. He also sent approximately \$800 to his sister 2 from 2010 to 2017 for birthday gifts. (GE 3.) Applicant disclosed the financial support on his March 2018 SF 86 but indicated that it was not on a regular basis with respect to his parents-in-law; not on a regular basis "for the last year" with respect to his sister-in-law; and twice a year with respect to his sister. He also disclosed that he had sent \$600 to his father-in-law through his father-in-law's cousin when his father-in-law was unable to travel to get the money due to illness. (GE 1.)

During his March 2018 interview with the OPM investigator, Applicant explained that the financial support was for his parents-in-law and his sister in Egypt; that since early 2017, he and his spouse had sent about \$250 a month consistently to her parents; and that they had sent about \$5,750 to her parents in the seven years prior to 2017. As for his sister in Egypt, Applicant related that he had given her about \$2,000 at \$400 a year to help her out. When asked about any other financial support, Applicant stated that he sent \$10,000 to brother 3 for rent in 2016, and his brother has repaid him. When discussing his contacts with his family members, according to the investigator, Applicant stated that he and his spouse agreed in February 2018 that they were no longer allowed to talk to their family members because his spouse felt he disclosed too much to his family about their personal lives, and the relatives want to borrow money because they know too much. (GE 2.) Applicant does not now recall stating that to the investigator. (Tr. 73.)

Since coming to the United States as a refugee in April 2009, Applicant traveled for almost a month from December 2014 to January 2015 to the UAE and from May 2017 to June 2017 to Iraq to visit family members. He was accompanied by his spouse and their

daughters on those trips. (GE 1, 4.) He traveled to the UAE again in June or July 2019 to see family members. (Tr. 59, 69-70.)

Applicant denies any contact with sisters 1 and 5 and brother 1, who are resident citizens of Iraq, or with sister 3, who now lives in the UAE, since his trip to Iraq in 2017. He denies any contact with his other siblings, who reside in the UAE, since his trip to Dubai in 2019. (Tr. 57-60.) He denies any contact with his sister in Egypt since 2019. (Tr. 61.) He asserts that after working as a linguist, he realized that any ties with them would affect his job, so he cut all his overseas contacts. (Tr. 58, 69-70.) According to Applicant, his family members are unaware of why he has not contacted them. He just stopped calling them. (Tr. 70.)

Likewise, Applicant denies any contact with his in-laws in Iraq since 2017. (Tr. 61-62.) As for financial support for his mother-in-law, he stated that it was his spouse that provided the support to her mother and sisters in Iraq. Since he worked on second shift, his wife would give him the money, which he sent on her behalf before going to work. (Tr. 63.) After he began working for the U.S. military, he told his spouse that she had to stop sending support, and she complied. (Tr. 62-63.) He asserts that his three brothers-in-law were living in Turkey in 2017, and he has had no contact with them since he spoke with them by telephone in 2017. (Tr. 63.)

As to his spouse's contacts with her parents and siblings in Iraq, Applicant responded that he does not think she talks to them. He and his spouse work different hours. He has not seen her talk to her family and does not know when she last spoke with them. He denies that he has any contact with her family. (Tr. 87.)

Character and Employment References

Applicant received a certificate of appreciation in June 2020 for outstanding performance and patriotism from the squadron where he served as a linguist from November 2019 to June 2020. (AE T.) A staff sergeant on the mission, which consisted of 14 weeks of difficult training between U.S. soldiers and 80 of a foreign country's soldiers in that country, indicates that Applicant was one of the best linguists he has worked with. He described Applicant as motivated and having a caring personality that contributed to the establishment of an excellent working relationship between the U.S. and foreign country's soldiers. The staff sergeant described Applicant as "an exceptional asset," who far exceeded the standards set for him. (AE U.)

The officer-in-charge (OIC) for five months of the mission, a lieutenant, attests that Applicant's "professionalism and dedication to the job was on clear display every day he was on duty." When under a "real world threat of indirect fire," Applicant left the safety of the bunkers to provide Arabic instructions over the loudspeaker. Applicant served as his personal translator during key leader engagements with the foreign armed force. (AE U.)

Two other first lieutenants familiar with Applicant's linguist duties on that assignment indicate that Applicant was able to effectively communicate as a translator and was an asset to their mission. (AE U.)

Administrative Notice

Those facts set forth in the Government's respective requests for Administrative Notice concerning Iraq, Turkey, Egypt, and the UAE are adopted and incorporated in this decision.

Iraq is a constitutional parliamentary republic. The United States is committed to an enduring partnership with Iraq toward ensuring its sovereignty and stability and combating terrorism and extremism in the country. The U.S. government has obligated more than \$405 million for the stabilization of liberated areas since 2016. Even so, the U.S. State Department advises against travel to Iraq due to COVID-19, terrorism, kidnapping, armed conflict, and the U.S. mission in Iraq's limited capacity to provide support for U.S. citizens. Numerous terrorist and insurgent groups, including remnants of the Islamic State in Iraq and Syria (ISIS) and Iran-aligned militia groups, are active in Iraq. Although the Iraqi government declared all of its territory liberated from ISIS in December 2017, ISIS remains a threat to public safety through the indiscriminate use of terrorist and asymmetrical attacks in Iraq. In 2020, terrorists conducted more than 100 attacks using improvised explosive devices (IEDs) and launched at least 40 indirect fire attacks against U.S. interests in Iraq. As of May 2020, the threat of kidnapping, rocket and mortar attacks, use of IEDs, and small-arms fire against official and private U.S. interests remained high. Baghdad is considered a critical-threat location for terrorism directed at or affecting official U.S.-government interests. Organized crime, uncontrolled militia activity, and corruption presented formidable obstacles to free enterprise and business in the city.

As of April 2021, the U.S. intelligence community's assessment was that the Iraqi government would almost certainly continue to struggle to fight ISIS and control Iranian-backed Shia militias which target U.S. interests. ISIS remains capable of waging a prolonged insurgency in Iraq and Syria, and that Iran will retain its problematic presence in Iraq. According to the latest State Department report on human rights abuses (See www.state.gov/reports/2021-country-reports-on-human-rights-practices/Iraq, released on April 12, 2022), ISIS continued to commit serious abuses and atrocities in 2021, including killings through suicide bombings and improvised explosive devices. Iraq's government continued investigations and prosecutions of allegations of ISIS abuses and atrocities and, in some instances, noted the conviction of suspected ISIS members under the counterterrorism law, however.

Significant human rights issues in 2020 and 2021 included credible reports of: unlawful or arbitrary killings, including extrajudicial killings by the government; forced disappearances by the government; torture and cruel, inhuman, and degrading treatment or punishment by the government; harsh and life-threatening prison conditions; arbitrary arrest and detention; arbitrary or unlawful interference with privacy; serious restrictions on free expression and media, including violence or threats of violence against journalists,

unjustified arrests and prosecutions against journalists, censorship, and existence of criminal libel laws; serious restrictions on Internet freedom; substantial interference with the freedom of peaceful assembly and freedom of association; restrictions on freedom of movement of women; forced returns of internally displaced persons to locations where they faced threats to their lives and freedom; threats of violence against internally displaced persons and returnee populations perceived to have been affiliated with ISIS; serious government corruption; lack of investigation and accountability for gender-based violence; crimes involving violence targeting members of ethnic minority groups; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; significant restrictions on worker freedom of association; and the existence of the worst forms of child labor.

Turkey is a constitutional republic. The Organization for Security and Cooperation in Europe expressed concern about restrictions on media reporting and campaigning in the country's presidential and parliamentary elections in 2018. Turkey remains a key NATO ally and a critical regional partner such that the United States remains committed to improving relations with Turkey. Yet, In December 2020, the United States imposed sanctions against Turkey for procuring from Russia's main arms-export entity the S-400 surface-to-air missile system, despite the availability of alternative, NATO-interoperable systems to meet its defense requirements.

The U.S. State Department currently advises U.S. citizens to not travel to Turkey due to COVID-19 and to exercise increased caution in Turkey due to terrorism and arbitrary detention. Terrorist groups continue to plot attacks in Turkey with little or no warning against tourist locations; transportation hubs; markets and shopping malls; local government facilities; hotels; clubs; places of worship; parks; major sporting and cultural events; educational institutions; airports; and other public areas. Terrorists have previously attacked the U.S. Embassy in Ankara, the U.S. Consulate General in Istanbul; and the U.S. Consulate in Adana. Turkey's security forces have detained tens of thousands of individuals, including U.S. citizens, for alleged affiliations with terrorist organizations based on scant or secret evidence and grounds that appear to be politically motivated. U.S. citizens have also been subject to travel bans that prevent them from leaving Turkey.

Turkey is a source and transit country for foreign terrorist fighters seeking to join ISIS and other terrorist groups fighting in Syria and Iraq, even as it is an active member of the Global Coalition to defeat ISIS. Several terrorist incidents involving roadside bombs, IEDs, suicide bombers, rocket attacks have occurred in Turkey in recent years.

Under broad anti-terrorism legislation passed in 2018, Turkey's government continues to restrict fundamental freedoms and compromise the rule of law. Significant human rights issues in the country in 2020 and 2021 included credible reports of: arbitrary killings; suspicious deaths of persons in custody; forced disappearances; torture; arbitrary arrest and continued detention of tens of thousands of persons, including opposition politicians and former members of parliament, lawyers, journalists, human rights activists, and employees of the U.S. Mission, for purported ties to "terrorist" groups or peaceful legitimate speech; political prisoners, including elected officials; politically motivated

reprisal against individuals located outside the country, including kidnappings and transfers without due process of alleged members of the Gulen movement; significant problems with judicial independence; support for Syrian opposition groups that perpetrated serious abuses in conflict, including the recruitment and use of child soldiers; severe restrictions on freedom of expression, the press, and the Internet, including violence and threats of violence against journalists, closure of media outlets, and arrests or criminal prosecution of journalists and others for criticizing government policies or officials, censorship, site blocking, and criminal libel laws; severe restriction of freedoms of assembly, association, and movement, including overly restrictive laws regarding government oversight of nongovernmental organizations and civil society organizations; serious government harassment of domestic human rights organizations; and gender-based violence. In 2021, the government took limited steps to investigate, prosecute, and punish members of the security forces and other officials accused of human rights abuses but impunity remained a problem. The government took limited steps to investigate allegations of high-level corruption.

Egypt is a republic governed by an elected president and bicameral legislature, with the upper house reconstituted in 2020 as the Senate after a six-year absence. Presidential elections were held in 2018. Challengers to incumbent President Abdel Fattah al-Sisi withdrew ahead of the election, citing personal decisions, political pressure, legal troubles, and unfair competition. In some cases, they were arrested for alleged abuses of candidacy rules. Domestic and international organizations expressed concern that government limitations on association, assembly, and expression severely constrained broad participation in the political process. Egypt has been implicated in some economic espionage activity to obtain sensitive U.S. technology. In August 2019, a naturalized U.S. citizen living in Egypt was found guilty of a scheme to sell hundreds of rocket-propelled grenade launchers to Egypt's Ministry of Defense.

The U.S. State Department current advises against travel to Egypt due to COVID-19 and to reconsider travel to the country because of terrorism. The U.S. Embassy has limited ability to assist dual U.S.-Egyptian citizens who are arrested or detained. The country has been under an almost continuous state of emergency since 2017 following the terrorist attacks on Coptic churches. Cairo is assessed as being a critical-threat location for terrorism directed at or affecting official U.S. government interests. Several terrorist organizations operate within the country, although recent attacks using small arms or IEDs, or involving kidnappings, executions, assaults, ambushes, and triggered assassinations have been largely in the Sinai region.

Significant human rights issues in Egypt in 2020 and 2021 included credible reports of: unlawful or arbitrary killings, including extrajudicial killings by the government or its agents, and by terrorist groups; forced disappearance by state security; torture and cases of cruel, inhuman, or degrading treatment or punishment by the government; harsh and life-threatening prison conditions; arbitrary detention; political prisoners or detainees; politically motivated reprisals against individuals located in another country; arbitrary or unlawful interference with privacy; serious restrictions on free expression and media, including arrests or prosecutions of journalists, censorship, site blocking, and the abuse of

criminal libel laws; serious restrictions on internet freedom; substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental and civil society organizations; restrictions on freedom of movement, including travel bans imposed on human rights defenders, journalists, and activists; serious and unreasonable restrictions on political participation; serious government restrictions on domestic and international human rights organizations; and crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons and use of the law to arrest and prosecute arbitrarily such persons. In March 2021, the United States joined a statement by Finland of concern about Egypt's restrictions on freedom of expression and assembly and the applications of terrorism legislation against peaceful activists.

In 2021, the Egyptian government failed to consistently punish or prosecute officials who committed abuses, whether in the security services or elsewhere in government, including for corruption. In most cases the government did not comprehensively investigate allegations of human rights abuses, including most incidents of violence by security forces, contributing to an environment of impunity.

The UAE is a federation of seven semi-autonomous emirates whose rulers constitute the Federal Supreme Council, the UAE's highest legislative and executive body. The emirates are under patriarchal rule with political allegiance defined by loyalty to tribal leaders, leaders of the individual emirates, and leaders of the federation. The U.S. State Department encourages U.S. citizens to reconsider traveling to the UAE due to COVID-19 and the threat of missile or drone attacks by rebel groups in Yemen. Abu Dhabi and Dubai are medium-threat locations for terrorism directed at or affecting U.S. government interests. The continued threat posed by terrorist groups in the UAE seeking to target U.S. interests requires those working or traveling in the UAE to remain vigilant, maintain a low profile, and vary routes, times, and routines.

The UAE seeks to be a leader in combating violent extremism, and advanced its counterterrorism efforts in 2020 in the area of countering terrorist financing. Even so, U.S. dual-use goods and technology, including military and electronic components and Internet technology, have passed through the UAE and UAE-owned businesses to destinations such as Iran and Syria. In September 2020, the U.S. Commerce Department added 11 entities or individuals under the destination of the UAE to its list of 47 entities determined to act contrary to the export control regulations and the national security or foreign policy interests of the United States.

Civilian authorities in the UAE maintain effective control over the security forces. In 2021, the UAE government investigated, prosecuted, and punished some officials who committed abuses, primarily official financial crimes. However, some significant human rights issues in 2020 and 2021 included credible reports of: torture in detention; arbitrary arrest and detention, including incommunicado detention by government agents; political prisoners; government interference with privacy rights; undue restrictions on free expression and media, including censorship and criminalization of libel; Internet site-blocking; substantial interference with the freedom of peaceful assembly and freedom of

association, including very restrictive laws on the organization, funding, or operation of nongovernmental organizations and civil society organizations; inability of citizens to change their government peacefully in free and fair elections; serious and unreasonable restrictions on political participation; and serious government restrictions or harassment of domestic and international human rights organizations.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to 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 overall 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 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of EO 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 F: Financial Considerations

The security concerns about financial considerations are articulated in AG ¶ 18:

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. . . .

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.

Guideline F security concerns are established when an individual does not pay financial obligations according to terms. One or more of the credit reports in evidence establishes the delinquent debts of concern in the amended SOR (SOR ¶¶ 1.a, 1.g, and 1.h). Applicant defaulted on the debts in or before 2016. Disqualifying conditions AG ¶¶ 19(a), "inability to satisfy debts," and 19(c), "a history of not meeting financial obligations," apply.

Applicant has the burdens of production and persuasion in establishing sufficient mitigation to overcome the financial concerns raised by his failure to meet some of his financial obligations according to contractual terms. AG ¶ 20 provides for mitigation under one or more of the following conditions:

(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; and

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

Regarding AG ¶ 20(a), the debts are not recent. Even so, they were not resolved before 2019. Evidence of ongoing delinquency for several years raises concerns about Applicant's financial judgment. The evidence shows that the creditors in SOR ¶¶ 1.a and 1.g cancelled some or all of Applicant's debt. He provided evidence that the creditor in SOR ¶ 1.g cancelled \$1,436.73 of his debt in April 2019. (AE F.) He testified that he resolved the debt balance. A recent credit report from March 2022 (GE 9) still lists the balance as \$2,519, but the information reported was as of January 2016. Similarly, he testified that the creditor in SOR ¶ 1.a also cancelled his debt, and he reported it as income on his tax returns. The debt is no longer listed on his credit report. Cancellation of debt is not a good-faith effort to resolve debts, but it does appear that the debts in SOR ¶¶ 1.a and 1.g are no longer a source of financial pressure for him. AG 20(c) applies to those debts. Applicant showed some good faith under AG ¶ 20(d) in that he made payments to a collection entity between September 2019 and November 2019, which were accepted in satisfaction of the debt in SOR ¶ 1.h. A review of Applicant's recent credit report reflects a pattern of timely payments on his current accounts. The financial considerations are sufficiently mitigated.

Guideline E, Personal Conduct

The security concerns about personal conduct are articulated in AG ¶ 15, which provides as follows:

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.

Regarding SOR ¶ 2.a, the evidence establishes that Applicant was arrested for simple assault against his wife, despite his assertions to the contrary. During his March

2018 PSI, he reportedly told the investigator that he struck his spouse because of her marital indiscretions, and that he did not realize at the time that it was unacceptable to strike his wife. The assault charge was *nolle prossed*, likely because she did not appear in court. His present assertion that he did nothing more than hug his spouse is not credible.

Regarding SOR ¶¶ 2.b and 2.h, the SOR respectively alleges that Applicant was terminated from a job after he punched a co-worker in the face, and that he did not disclose on his SF 86 that he was terminated for the incident. He told the OPM investigator that he punched the co-worker during an argument and was questioned about it by police. His present denial that he struck the co-worker and at worst placed his hand on the co-worker's shoulder cannot be reconciled with his previous statement of March 2018. There is a reasonable presumption that the investigator accurately reported what Applicant told him or her. Although English is not Applicant's first language, it was not established that the investigator misunderstood him, either with respect to the assault on his wife or his former co-worker. Applicant asserts that he was an employee of the staffing company and not the shipping company and was placed in another position the day after the incident with the co-worker. Whether or not he was fired, he left the job under unfavorable circumstances. He falsely indicated on his SF 86 that he left the job when it was completed.

As for Applicant asking for time off because his spouse was going to leave him because he was not home (SOR ¶ 2.c) rather than informing his supervisor that he did not want to work in that job, he admitted during his subject interview that he had not been candid with his supervisor about the reason for requested leave. He now asserts that it was a mix-up and that it was not false because his wife worked a different shift. It is not the most serious of false statements, but it does cast some doubt as to whether his representations can reasonably be relied on. Applicant admits that he made false statements when he told the staffing company that he had moved back to Iraq (SOR ¶ 2.d) and that his brother had been killed in an explosion in Iraq (SOR ¶ 2.e).

Concerning Applicant's failure to accurately report his residence from February 2016 to November 2016 (SOR ¶ 2.f), he credibly asserts he did not understand that he had to list where he was actually residing and not his permanent address. As for his alleged employment terminations for being "no shows" (SOR ¶¶ 2.g and 2.i), he admits that he just walked off some jobs that he did not like, but there is no record in evidence to prove he was fired. The personnel record from the employer in SOR ¶ 2.i indicates only that he was placed in "inactive status."

While the evidence of intentional falsification is lacking with respect to SOR ¶¶ 2.f, 2.g., and 2.i, and favorable findings are returned as to those allegations on that basis, Applicant's admissions during his March 2018 PSI to assaultive behavior against his spouse (SOR ¶ 2.a) and a former co-worker (SOR ¶ 2.b); his lies to his then employer in 2017 and 2018 about his reasons for requesting leave (SOR ¶ 2.c), leaving the employ (SOR ¶ 2.d), and more recently for his absence from work to attend his CSS (SOR ¶ 2.e); and his misrepresentation on his SF 86 about the reason for him leaving the work at the shipping company (SOR ¶ 2.h) reflect a pattern of dishonest statements that implicate one or more of the following personal conduct security concerns under AG ¶ 16:

(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; and

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

(2) any disruptive, violent, or other inappropriate behavior; and

(3) a pattern of dishonesty or rule violations.

The following mitigating conditions under AG ¶ 17 may apply in whole or in part:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(f) the information was unsubstantiated or from a source of questionable reliability.

AG ¶ 17(a) has some applicability, given Applicant's admissions during his March 2018 PSI to the assaultive behaviors and to have falsely told the staffing agency that he moved back to Iraq, and in another instance, that he had to travel to Iraq because his brother had died in an explosion. However, his case in reform is undermined by his present claims that he never struck his wife or his former co-worker. His characterization of his false statements to his employer as "white lies" makes it difficult for me to conclude that his representations can be relied on and that the dishonesty he exhibited is unlikely to recur.

The personal conduct concerns raised by the conduct in SOR ¶¶ 2.a through 2.e and 2.h are not mitigated. AG ¶ 17(f) applies as to the allegations in SOR ¶¶ 2.f, 2.g, and 2.i.

Guideline B: Foreign Influence

The security concern relating to the guideline for foreign influence is articulated 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 that is 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.

Applicant's ten siblings are Iraqi citizens. Brother 1 and sisters 1 and 5 live in Iraq. Sister 2 lives in Egypt. Sisters 3, 4, 6, and 7, and brothers 2 and 3 reside in the UAE. Applicant's parents-in-law and his spouse's sisters are Iraqi resident citizens. Her three brothers are Iraqi citizens living in Turkey. Review of Applicant's contacts and connections to these foreign citizens are warranted to determine whether they present a heightened risk under AG ¶ 7(a) or create a potential conflict of interest under AG ¶ 7(b). Those disqualifying conditions provide:

(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; and

(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.

Not every foreign contact or tie presents the heightened risk under AG ¶ 7(a). The "heightened risk" denotes a risk greater than the normal risk inherent in having a family member or a spouse's family member living under a foreign government. The nature and strength of the family ties or other foreign interests and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability 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 on, the foreign government; or the country is known to conduct intelligence operations against the United States. In considering the nature of the foreign government, the administrative judge must also take into account any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006).

There is no evidence that Applicant's siblings or his spouse's family members have engaged in any activities contrary to U.S. interests or that they have been targeted or pressured. However, the risk of terrorism is very real, especially in Iraq, Egypt, and Turkey. Turkey is a source and transit country for foreign terrorist fighters seeking to join ISIS and other terrorist groups fighting in Syria and Iraq, even as it is an active member of the Global Coalition to defeat ISIS. All four countries involved (Iraq, Turkey, Egypt, and the UAE) have significant human rights issues. Although a NATO ally, Turkey does not always act in accord with U.S. interests, as evidenced by its acquisition of Russian S-400 surface-to-air missile system, despite the availability of alternative, NATO-interoperable systems to meet its defense requirements. Egypt has been implicated in recent economic and technological espionage against the United States. U.S. dual-use goods and technology, including military and electronic components and Internet technology, have passed through the UAE and UAE-owned businesses to destinations such as Iran and Syria. Applicant's brother #1 works for Iraq's government. It is conceivable that pressure could be brought to bear on Applicant through his or his spouse's family members to obtain sensitive information. AG ¶¶ 7(a) and 7(b) apply

Three mitigating conditions under AG ¶ 8 warrant some discussion in this case. They are:

(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; 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.

AG ¶ 8(a) cannot reasonably apply. There is nothing about the occupations of Applicant's or his spouse's family members that raises a particular concern, except perhaps his brother 1, who works for Iraq's government. Not enough is known about this

brother's position or activities to allay the concern that his government employment heightens the risk. Sister 3 is the only sister who works outside the home, and she is an elementary school teacher in the UAE. Applicant's father-in-law previously worked for the Iraqi police, but his employment ended in 2005. The risk of indiscriminate acts of terrorism and the human rights issues in all four countries preclude full mitigation under AG ¶ 8(a).

Applicant has a case for some mitigation under AG ¶ 8(b). There is no evidence that he has any loyalty to his native Iraq. To the contrary, his desire to continue to work as a linguist for the U.S. government is consistent with allegiance to his adopted homeland the United States. He, his spouse, and older daughter were taken in as refugees. They have acquired U.S. citizenship by naturalization and possess U.S. passports. Applicant's younger daughter is a U.S. citizen from birth. Applicant and his spouse own their home in the United States, and they have jobs in the United States. By all accounts, their lives are here. There is no indication that they intend to reside permanently elsewhere.

Regarding AG ¶ 8(c), there is no evidence that Applicant has had any contact with any of his siblings or his spouse's family since 2019. He testified that he ended the contacts and financial support when he began working as a linguist for the U.S. government and realized his ongoing contacts with his and his spouse's relatives could pose a problem. He asks the Government to believe that he ended his contacts and financial support abruptly, without explaining to his relatives the reason why. Concerns about his candor because of his pattern of misrepresentations are not a substitute for record evidence. Even if he has not had any contact with his or his spouse's relatives since 2019, it is unclear that his spouse has ended her contacts with her family. Applicant admitted at his hearing that he does not know when his spouse last talked to her family in Iraq.

Moreover, Applicant had contact with his relatives even after he told the OPM investigator in March 2018 that, as of February 2018, he and his spouse agreed that they are no longer allowed to talk to family members; that his spouse felt that he revealed too much about their personal lives to his family and "they want to borrow money because they know too much." He maintained contact with some family members to at least 2019. He visited with some of them in the UAE in 2019. After considering all the facts and circumstances, the risk of undue foreign influence is not fully mitigated.

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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(d). Those factors are as follows:

- (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.

Applicant earned the respect and appreciation of the U.S. military officers who benefitted from his translation services during a training mission overseas. His service on behalf of the U.S. military certainly reflects positively on him. Yet, considerable doubts persist as to whether he can be counted on to fulfill his obligations without regard to his self-interest. He did not display professionalism when he walked off jobs because he did not like them. He has a troubling record of misrepresenting the facts when it is in his self-interest to do so.

Furthermore, in foreign influence cases, it must be acknowledged that people act in unpredictable ways when faced with choices that could be important to a family member. As reiterated by the Appeal Board in ISCR Case No. 19-01688 at 5 (App. Bd. Aug. 10, 2020), "Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member."

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). Based on the evidence of record, it is not clearly consistent with the interests of national security to grant or continue security clearance eligibility for Applicant.

Formal Findings

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

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b-1.f:	Withdrawn
Subparagraphs 1.g-1.h:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a-2.e:	Against Applicant
Subparagraphs 2.f-2.g:	For Applicant
Subparagraph 2.h:	Against Applicant
Subparagraph 2.i:	For Applicant
Paragraph 3, Guideline B:	AGAINST APPLICANT

Subparagraph 3.a:
Subparagraphs 3.b-3.j:

For Applicant
Against Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge