



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



In the matter of:)
)
) ISCR Case No. 19-03938
)
Applicant for Security Clearance)

Appearances

For Government: Andrea Corrales, Esq., Department Counsel
For Applicant: *Pro se*

11/30/2022

Decision

RIVERA, Juan J., Administrative Judge:

Applicant failed to mitigate the financial considerations security concerns. He mitigated the foreign influence security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On June 1, 2020, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant responded to the SOR on September 4, 2021, and requested a hearing before an administrative judge. On November 5, 2021, the CAF amended the SOR detailing security concerns under Guideline B (foreign influence). Applicant responded to the amended SOR on November 25, 2021.

The case was assigned to me on June 3, 2022. I convened the hearing as scheduled on July 26, 2022. Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. GE 5 (discovery letter, November 5, 2021) and GE 6 (Request for Administrative Notice - the Republic of the Philippines (Philippines)) were marked and made part of the record, but they are not substantive evidence. Applicant testified,

presented a witness, and submitted Applicant's Exhibits (AE) 1 through 5, which were admitted without objection. I received AE 5 post-hearing.

Department Counsel requested that I take administrative notice of certain facts about the Philippines. Without objection, I have taken administrative notice of the facts contained in the request. The facts are summarized in the written request and will not be repeated verbatim in this decision. Of particular note is the significant threat of terrorism, crime, and ongoing human rights problems in the Philippines.

Findings of Fact

Applicant is a 47-year-old employee of a defense contractor. He completed high school in 1993, and has attended college on and off through the years, accumulating about 60 college credits. (Tr. 5, 6) He enlisted in the military in 1993 and served on active duty until October 2012. He was honorably retired as an E-7. (Tr. 20 - 21) While in the service, he held a top-secret clearance that was continued after his retirement. Applicant stated he had an impeccable record during his service. (Tr. 7, 8, 22)

Applicant married his first wife in 1998 and divorced in 2003. He has a son, age 23, of this marriage. His ex-wife was born in the Philippines. He maintains limited contact with her, mostly to discuss issues concerning their son.

Applicant married his current wife in 2013. She was born in the Philippines to Philippine parents. He met his wife in the United States while she was working in a retail store. When they met, she was already a naturalized U.S. citizen. Her three children, ages 23, 28, and 30, were born in the Philippines. Her son and one daughter are living in the United States. The second daughter is a resident of the Philippines. He testified he always had limited contact and no father role with his wife's children. (Tr. 22, 30 - 31; GE 1, 2)

In 2018, Applicant and his wife visited her relatives in the Philippines. This was his first visit to the Philippines and met her father and children. He has had no contact (physical or verbal) with her father after the 2018 visit. Between 2013 and 2016, Applicant provided financial assistance (about \$250 per month) to his stepdaughters in the Philippines. The money was to assist them with their expenses while in school. Applicant has not provided any financial assistance to his stepdaughters since 2016, except for small presents during special occasions. He has provided limited financial assistance to his stepson who has been living with Applicant's son while in college. Two of his stepchildren are currently U.S. residents. He does not know whether any of his stepchildren are naturalized U.S. citizens.

Applicant testified that in 2019, he and his wife determined that their marriage was not working out and they are considering a divorce. They stopped living together in April 2022 when their house rental contract ended. He is waiting for the statutory separation period to lapse to file for divorce. (Tr. 32)

As amended, the SOR alleges that Applicant: is indebted to the IRS for \$11,617 for tax year (TY) 2015 (SOR ¶ 1.a); failed to timely file his federal and state income tax

returns for TYs 2016, 2017, and 2018 (SOR ¶ 1.b); owed a bank \$55,136 for a delinquent 2014 loan (SOR ¶ 1.c); and owed another bank \$2,446 for a delinquent credit-card account (SOR ¶ 1.d). Under Guideline B, it alleges that his father-in-law (SOR ¶ 2.a) and two stepchildren are citizens and residents of the Philippines, and that he provides \$250 monthly in financial support to his stepchildren (SOR ¶ 2.b). He denied all of the financial allegations and admitted the foreign influence allegations with explanations.

Applicant blames his wife for his financial problems and for him not filing his income tax returns on time. He explained that while unemployed after his retirement, she would withdraw \$1,000 from their joint checking account without giving him prior notice. (Tr. 37 -38) He testified that she refused to provide him with documents and information he required to file his income tax returns, and refused to file income tax returns with him. (Tr. 83 – 84)

Concerning his TY 2015 debt to the IRS, Applicant explained his wife refused to sign the income tax return as a joint return and he had to file as married filing separate. The change in filing status caused an increase in his tax liability. In March 2021, he convinced his wife to file amended income tax returns for TYs 2015 and 2017 as married filing jointly, and he filed them both. He believes that when the IRS approves the amended tax returns, his tax liability will be reduced.

According to Applicant and his accountant, he owes the IRS \$1,456 for TY 2015; he received a refund of \$2,028 for TY 2017; he owes \$2,190 for TY 2018; \$6,978 for TY 2019; and \$10,034 for TY 2020; for a total balance of past due Federal taxes of \$18,639.00. (AE 5) For state A, Applicant owes \$1,094 in income taxes for TY 2015; and \$1,525 for TY 2017. For state B, he owes \$6,015 in income taxes for TY 2018; \$3,254 for TY 2019; and \$1,850 for TY 2020. (AE 5) Most of these facts were not alleged in the SOR. As such, I will only consider these facts to determine the possible applicability of the mitigating conditions.

Applicant claimed he verified the balances he owes per TY with an IRS representative in August 2022. He stated he entered into a payment plan with the IRS promising to pay a minimum of \$500.00 each month. His intent is to pay \$1,000.00 each month to resolve his tax debt in the shortest period possible. As of his August 12, 2022 email, he had not received the approved IRS payment plan in the mail. He did not present documentary evidence to corroborate the IRS accepted his TY 2015 amended income tax return or that he has an IRS approved payment plan for his outstanding tax debt.

Applicant claimed that he timely filed his TYs 2018 and 2019 income tax returns and the IRS rejected them because of problems with his TYs 2015 and 2017 income tax returns. I note that the IRS Wage and Income Transcript for TY 2018 shows that as of April 15, 2019, he had not filed his TY 2018 income tax return. Applicant's documentary evidence shows that his accountant filed his TYs 2018 and 2019 income tax returns in March 2021. (See Answer to the SOR; Tr. 80 – 81; AE 5)

Applicant submitted an August 2022 letter from his accountant indicating that he had just prepared Applicant's income tax return for TY 2021. Applicant testified he did not

apply for or receive an extension to file, so his filing would be late. (Tr. 79 - 80) The accountant stated Applicant would owe the IRS \$6,000 and his state \$1,600 for TY 2021. Applicant claimed he had saved \$22,000 to pay his delinquent income taxes. He intended to use \$7,600 to pay his TY 2021 taxes, and reserved \$14,400 to pay delinquent taxes for prior years. Applicant presented no documentary evidence to show he had saved \$22,000 or that he paid his TY 2021 income taxes. (AE 5)

When asked why it took him so long to address his delinquent income taxes, Applicant claimed he had been addressing other delinquent debts first and did not have the resources to pay all the debts at the same time. (Tr. 62) His current income is \$94,000 a year. He has been earning over \$90,000 a year since 2016. (Tr. 25 - 26) Additionally, he receives \$2,000 per month from his retired pension and \$1,200 per month from disability pay. (Tr. 28)

SOR ¶ 1.c alleged that Applicant owed a bank \$55,136 for a delinquent 2014 consolidation loan. Applicant took the loan to consolidate debts that accumulated during his service. He retired from the military in October 2014 and was not able to find employment until February 2015, which caused him to default on the loan. The creditor obtained a judgment against Applicant that was later placed for collection and then charged off. He settled the debt for \$25,000 on May 13, 2021, after he received the SOR in June 2020. (Tr. 54, 58; SOR Answer)

SOR ¶ 1.d alleged that Applicant owed a bank \$2,446 for a delinquent joint credit-card account he opened in 2012. The account became delinquent in 2015, and was charged off. Applicant contacted the creditor in May 2021, established a payment plan, and paid it off in February 2022. (SOR Answer)

Applicant stated that he received training during his military career to prevent financial problems. Throughout his entire military career, Applicant knew how important it was to maintain good credit and establish a track record of financial responsibility to maintain security clearance eligibility. (Tr. 23)

Applicant highlighted his military service and expressed his undivided loyalty to the United States. He was deployed eight times with most of those deployments to combat or dangerous zones in the Middle East. (Tr. 27) He credibly testified that his in-laws and stepchildren in the Philippines could not be used to coerce or intimidate him into revealing classified information, and that he would report any attempt to do so. (Tr. at 35, 40, 50-51)

Applicant's witness testified that he met Applicant six year ago at a cigar lounge while smoking a cigar. He considers Applicant to be a very close confidant and friend, and he trusts him implicitly. He trusts Applicant with his life. He believes Applicant is a patriot that he is loyal to the United States, and he would never betray the security of the United States. (Tr. 92 – 93)

Policies

This case is adjudicated 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 adjudicative guidelines (AG), which became effective on June 8, 2017.

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(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 national security eligibility will be resolved in favor of the national security."

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

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

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

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern relating to financial problems:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified 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.

Applicant is indebted to the IRS for delinquent income taxes for TY 2015. If the IRS accepts his TY 2015 amended income tax return, he will be indebted to the IRS for about \$1,456. If it is not accepted, he will owe the IRS \$11,617. Regardless of the amount owed, he has owed TY 2015 income taxes to the IRS since they were due in 2016. Other than filing an amended income tax return for TY 2015 in March 2021, Applicant presented no documentary evidence of any contacts with the IRS or of any payments made towards his TY 2015 income taxes since they became due. Additionally, Applicant failed to timely file his TY 2018 income tax return. It was filed by his accountant on March 23, 2021.

Concerning the charged-off loan alleged in SOR ¶ 1.c, Applicant took the loan in 2014 to consolidate debts that accumulated during his service. He retired from the military in October 2014 and was unemployed for four months. He defaulted on the loan in 2015. The creditor obtained a judgment against Applicant that went unpaid, and it was placed for collection, and then charged off. Applicant settled the debt for \$25,000 on May 13, 2021, after he received the SOR in June 2020. Applicant presented no documentary evidence to show any efforts to contact the creditor, make payments, or establish a

payment agreement to settle or resolve this debt from the date it became delinquent in 2015, until May 2021.

Regarding the \$2,446 charged-off credit-card account alleged in SOR ¶ 1.d, Applicant opened the joint account in 2012 and defaulted on it in 2015. He settled the account in May 2021 and paid it off in February 2022. He presented no documentary evidence to show any efforts to contact the creditor, make payments, or establish a payment agreement to settle or resolve this debt from 2015 until May 2021.

AG ¶ 19 provides disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability to satisfy debts”; “(c) a history of not meeting financial obligations”; and “(f) failure to file . . . annual Federal, state, or local income tax returns . . . or failure to pay annual Federal, state, or local income tax as required.” The record established these disqualifying conditions, requiring additional inquiry about the possible applicability of mitigating conditions.

The following 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

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

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

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government

presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” Directive, Enclosure 2 ¶ 2(b).

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

Applicant attributed his financial problems to a four-month period of unemployment after he retired from the military, his wife’s refusal to provide documents and information he required to file his tax returns, and her reluctance to sign his income tax returns as married filing jointly, which caused him to change his tax filing status and increased his tax liability.

I have considered as a circumstance beyond Applicant’s control his period of unemployment. I do not find his wife’s refusal to provide him with documents or tax information, and to sign Applicant’s income tax returns as a valid excuse for him to file late his income tax returns. Her refusal to sign his income tax returns could have adversely affected his ability to timely file, but only for a short period. It was Applicant’s responsibility and legal obligation to timely file his income tax returns. If she refused to sign his income tax returns, Applicant should have filed under a different filing status.

Applicant was required to timely pay his TY 2015 income taxes. He failed to present evidence of his efforts to pay his delinquent taxes. He only presented testimony of his efforts to convince his wife to refile his TY 2015 income tax return as married filing jointly. It took Applicant six years to file an amended return for TY 2015. He presented no documentary evidence of any payments made, of efforts to contact the IRS to settle or to establish a payment plan to pay his delinquent TY 2015 income taxes until 2021.

Applicant submitted his SCA in 2018 and disclosed his financial problems; he was questioned about his taxes during his October 2018 background interview, and was issued the SOR in June 2020. Notwithstanding, he delayed filing his amended federal income tax return for TYs 2015 until March 2021. He claimed he talked with an IRS representative sometime in August 2022, and that he is working on a payment plan with the IRS to pay his delinquent taxes. He presented no documentary evidence to corroborate his claims. Applicant’s evidence is insufficient to establish that he has been financially responsible under the circumstances.

Because of his military service and years working for federal contractors while possessing a clearance, Applicant knew or should have known of the security concerns raised by his failure to timely file income tax returns and to pay his taxes. Notwithstanding, he did nothing to file his delinquent TY 2018 federal income tax returns until March 2021. As of August 2022, had not established a payment plan with the IRS to pay his delinquent taxes.

About the failure to timely file federal and state income tax returns, the DOHA Appeal Board has commented:

Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. *See, e.g.*, ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward *inducing an applicant to file tax returns*. Rather, it is a proceeding aimed at evaluating an applicant's judgment and reliability. *Id.* A person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. *See, e.g.*, ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). *See Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961).

ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016) (emphasis in original). *See* ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016) (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002)); ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015).

The record evidence shows that Applicant has a problem complying with government rules, regulations, and systems. He failed to establish full mitigation of the financial considerations security concerns. I am unable to find that Applicant acted responsibly under the circumstances or that he made a good-faith effort to timely file his income tax returns or pay his taxes. Applicant's financial issues are recent and ongoing. They continue to cast doubt on his current reliability, trustworthiness, and good judgment.

Guideline B, Foreign Influence

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

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

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

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

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

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

Applicant's father-in-law and one stepdaughter are citizens and residents of the Philippines. The potential for terrorist, crime, and other violence against U.S. interests and citizens remains high in the Philippines, and it continues to have human rights problems. Applicant's foreign contacts create a potential conflict of interest and a heightened risk of foreign exploitation, inducement, manipulation, pressure, and coercion. The above disqualifying conditions have been raised by the evidence.

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

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

(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;

Guideline B is not limited to countries hostile to the United States. The United States has a compelling interest in protecting and safeguarding sensitive 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. Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, the country is known to conduct intelligence operations against the United States, or the foreign country is associated with a risk of terrorism.

I considered the totality of Applicant's ties to the Philippines. Applicant has limited physical and verbal contact with his wife's father and children. He visited the Philippines only once in 2018. His wife, although born in the Philippines, was a naturalized U.S. citizen when Applicant met her and later married her. His stepson and one of the stepdaughters live in the United States. Applicant stopped providing financial support to his stepchildren in 2016, although, he continues to provide some financial support to his stepson who is attending college in the United States.

Applicant is a U.S. citizen by birth. He served over 20 years in the military and has worked for federal contractors since 2015. He expressed his undivided allegiance to the United States. He credibly testified that he and his wife are having difficulties maintaining their marriage and are planning a divorce in the near future. He has never been close to his stepchildren. His wife's family in the Philippines could not be used to coerce or intimidate him into revealing classified information.

I find that Applicant's ties to the Philippines and his wife's family there are outweighed by his deep and long-standing relationships and loyalties in the United States. It is unlikely he will be placed in a position of having to choose between the interests of the United States and the interests of the Philippines. There is no conflict of interest, because he can be expected to resolve any conflict of interest in favor of the United States. AG ¶¶ 8(a) and 8(b) are applicable. I find the Guideline B security concerns for Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to

which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

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

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F and B in my whole-person analysis. I also considered Applicant's honorable military service, his work for a federal contractor, and his favorable character evidence.

Nonetheless, the record evidence leaves me with questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the foreign influence security concerns, but he failed to mitigate the financial considerations security concerns.

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 F:	AGAINST APPLICANT
Subparagraphs 1.a - 1.d:	Against Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant

Conclusion

It is not clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

JUAN J. RIVERA
Administrative Judge