



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



In the matter of:)
)
) ISCR Case No. 23-01586
)
Applicant for Security Clearance)

Appearances

For Government: Brian Farrell, Esq., Department Counsel
For Applicant: Todd Hull, Esq.

10/31/2024

Decision

MASON, Paul J., Administrative Judge:

Applicant’s evidence in mitigation does not overcome the continuing security concerns generated by the guidelines for foreign influence, sexual behavior, and personal conduct. Eligibility for security clearance is denied.

Statement of the Case

On April 12, 2024, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) seeking security clearance eligibility required for a position with a defense contractor. After an investigation, the Department of Defense (DOD) Defense Counterintelligence Security Agency (DCSA) Consolidated Adjudications Services (CAS) could not make the affirmative findings required to grant a security clearance. DCSA issued Applicant a Statement of Reasons (SOR), dated August 17, 2023, detailing security concerns raised under foreign influence (Guideline B), sexual behavior (Guideline D) and personal conduct (Guideline E). The action was taken under Executive Order (E.O.) 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) effective in the DOD on June 8, 2017.

Applicant provided an undated answer to the SOR. On August 27, 2023, he initially requested a decision be made on the record in lieu of a hearing. He subsequently requested a virtual hearing. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on May 9, 2024, for a hearing on June 13, 2024. The hearing was held as scheduled. The Government's two exhibits (GE 1, 2) and Applicant's seven exhibits (AE A-G) were admitted into evidence without objection. (Tr. 14) Administrative Notice was taken of the Republic of Turkey and Kazakhstan. The supporting administrative notice exhibits have been marked as Hearing Exhibits (HE) 1 and 2. Exhibits of the parties were admitted into evidence and administrative notice was acknowledged on pages 13 through 15 of the transcript (Tr.). The record in this case closed on June 25, 2024, when DOHA received the transcript.

Rulings on Procedure

During the hearing, Department Counsel moved to amend the SOR as follows:

¶ 1.e – Substitute the total value amount as approximately \$2,000,000 in place of \$800,000 posted in the allegation. Substitute the amount of Applicant's inheritance as 33% instead of 50%.

¶ 1.f – Substitute the total value of foreign bank accounts as \$21,000 instead of \$541,000 posted in the allegation. Substitute Applicant's amount of inheritance as 33% instead of 50%.

¶ 1.g – Substitute the total value of Applicant's father's company as approximately \$1,000,000 instead of \$223,000 posted in the allegation. Substitute the amount of Applicant's inheritance is 33% instead of 50%.

Without objection, the three amendments were granted. (Tr. 62-63) See E3.1.17. of DoD Directive 5220.6.

Applicant moved to amend ¶¶ 1.a and 1. b and of the SOR by inserting the date of 2018 in place of April 2022. Although I acknowledged Applicant's oral motion by indicating "Okay," I did not grant his amendment, especially when there was forthcoming evidence of a resumption of the relationship with the citizen of Kazakhstan until April 2022 and beyond. (Tr. 109) At the end of the hearing, Applicant renewed his motion to amend the SOR ¶¶ 1.a and 1.b by substituting the "spring/summer of 2018" in place of "April 2022." That motion was denied based on Applicant's testimony that the relationship has continued until June 2024, the date of the hearing. (Tr. 173-174)

The handwritten page numbers appearing at the bottom of the May 2022 personal subject interview (PSI) will be cited in the Findings of Fact below. (GE 2 at 5 through 12)

Administrative Notice

I have taken administrative notice of certain relevant facts related to the Republic of Turkey and Kazakhstan. The facts, which are limited to matters of general knowledge and not subject to reasonable dispute, come from source material published by US State Department. The administrative notice memorandum and supporting documents are marked as hearing Exhibits (HE) 1 and 2.

Findings of Fact

Applicant is 29 years old and single. He was born in the United States (US) and has lived with his parents since 2001 at his present residence. He received his high school diploma in May 2013 and his bachelor's degree (computer science) in July 2020. (GE 1 at 8-9; Tr. 5-9, 81)

Since March 2022, Applicant has been employed as a data analyst by a defense contractor. From December 2020 to March 2022, he was a data analyst with another defense contractor. His professional career also includes employment as a business analyst. From July 2019 to December 2020, he was unemployed. He has never served in the military. Before his current application, Applicant was never investigated, nor has he possessed a security clearance. (GE 1 10-20, 34, 86)

Under Guideline B, the SOR alleges that from February 2017 to April 2022, Applicant had a relationship with a citizen from Kazakhstan, whom he met on a pornographic website on her web show. (¶ 1.a) During the same period, he provided financial support to the person, a citizen and resident of Kazakhstan. (¶ 1.b) Guideline B also alleges: that Applicant's father is a citizen and part-time resident of Turkey (¶ 1.c); that his uncle, aunt and cousins are citizens and residents of Turkey (¶ 1.d); that his family owns real property in Turkey, including houses, offices, farms, and apartments with an amended value of \$2,000,000, with Applicant inheriting 33% of those assets (¶ 1.e); that Applicant will inherit 33% of his father's foreign bank accounts valued at about \$21,000 (¶ 1.f); and, he will inherit 33% of his father's company, valued at approximately \$1,000,000. (¶ 1.g) The total value of the family's financial interests in Turkey is approximately \$3,021,000.

Regarding Guideline D, the SOR cross-alleges that Applicant's conduct under ¶¶ 1.a and 1.b constitutes sexual behavior under ¶ 2.a. Under Guideline E, the SOR also alleges that Applicant failed to disclose his close and/or continuing contact with a foreign national female (FN) within the last seven (7) years, with whom he was bound by affection or common interests, as required by Section 19 of his April 2022, e-QIP. (¶ 3.a). He also failed to disclose in the same e-QIP at Section 20A that he had provided

financial support for an FN. (¶ 3.b) Even though unalleged in the SOR, Applicant failed to disclose witness B on his April 2022 e-QIP. Applicant believed that B's marriage to a US citizen made him a US citizen. Applicant admitted all allegations in the SOR.

SOR ¶¶ 1.a, 1.b - After submitting his April 2022 e-QIP, in which he did not disclose the name of an FN, a citizen and resident of Kazakhstan (GE 1 at 26), Applicant provided a PSI to an investigator from the Office of Personnel Management (OPM) in May 2022, where he gave explanations for initiating a relationship with the FN and why he did not disclose the information on his April 2022 e-QIP. (GE 2 at 5-12)

In his May 2022 telephone PSI (Applicant was 27 years old at the time of the PSI) with an investigator from OPM, after a video interview earlier the same day, Applicant explained that he had a relationship and provided financial support to a FN, a citizen of Kazakhstan. (SOR ¶¶ 1.a and 1.b, GE 2 at 11) Their relationship began on a pornographic website with the FN hosting a streaming web show. He started viewing her web presentation on February 2017 (Applicant was 23 years old), for about two hours each time he watched, at a frequency of about three times a week. He estimated that he spent \$500 to \$600 in the first three months of their contact, including \$20 for each stream, and an unidentified amount for private streams. However, at the June 2024 hearing, Applicant was not sure whether he participated in any streaming or private porn shows with the FN. He recalled that he only talked with her. (GE 2 at 11; Tr. 143-148)

Continuing with a review of Applicant's May 2022 PSI, after one or two months, his contact with the FN became closer, with Applicant advising her that she should not be hosting a streaming web show. They exchanged personal contact information, and he visited her almost daily on her stream online after work. They continued their relationship on another social media platform and Applicant thought they were in a dating relationship. He gave her \$1,777 between November 2017 and February 2018 to attend flight attendant training. They had contact until April 2022, when Applicant learned that the FN was pregnant with a second child from her husband. (GE 2 at 11) There is no reference in the PSI that the relationship ended before April 2022.

However, in his testimony at the June 2024 hearing, Applicant denied that his first viewing to the web stream with the FN occurred in February 2017, as he indicated in his May 2022 PSI. After fact-checking the relationship, Applicant claimed that it did not start until the fall of 2017. (Tr. 139) Though his May 2022 PSI identified April 2022 as the last contact that he had with the FN, he claimed at the June 2024 hearing that the date was when he received the FN's transmitted text message to him by telegram, which Applicant blocked or ignored because of a lack of interest in FN. (Tr. 140-142)

Applicant explained in the May 2022 PSI that he did not reveal his contact with or financial support for the FN because he did not understand the meaning of foreign national. As indicated in the April 2022 e-QIP, "A foreign national is defined as any person who is not a citizen or national of the US." (GE 1 at 26)

Applicant supplied several related reasons for the omission, including that the relationship was only virtual with no face-to-face contact (with the FN). Another reason was that he wanted to “bury this secret part of his life,” and “this could have been used as blackmail, pressure, coercion or influence.” (GE 2 at 11) At the June 2022 hearing, he explained the above quoted language about burying this secret part of his life as indicating that he “probably didn’t remember it...” (Tr. 136), referring to the affair with the FN, even though he acknowledged the seriousness of the relationship with marriage in the picture. He made no mention to the agent in the May 2022 PSI about not remembering his affair when he filled out the e-QIP a month earlier. The blackmail reference was Applicant’s concern that the computer servers of an eastern country, which were used to manage FN’s pornographic streams, could not be deleted or taken down. (Tr. 164) Surprisingly, Applicant made no modifications or changes to the May 2022 PSI in his responses to the government interrogatories in August 2023. In his testimony, while acknowledging that he adopted the May 2022 PSI, he claimed there was additional meaning between those lines of the May 2022 PSI. (GE 2 at 1-4, 11-12; Tr. 105, 108-109, 128-129; 132-138)

At the beginning of Applicant’s testimony in June 2024, he submitted an undated character reference from the FN. (AE G) She believed their relationship began in 2018. She acknowledged Applicant’s financial assistance so that she could shop. She acknowledged the flowers that he sent her, and his financing of her flight attendant training. They never met face-to-face, and they broke up in the spring of 2019, partially because Applicant’s father did not support the relationship. And Applicant thwarted her attempts to contact him until the security clearance matter arose. (circa August 2023) The FN surmised that another minor event caused an end to their relationship. (AE G)

Applicant likened his financial support of FN to a boyfriend providing help to his girlfriend. Initially, he testified that he spent \$1,777 in payments and an unknown number of payments for other items between November 2017 and April 2018, then changed the end date for payments to February 2018. Applicant did not believe the FN would come to the US because his father was against the relationship. Applicant realized that finishing college was more important than starting a family. (Tr. 108, 110)

Applicant does not believe that the FN has any connections to the Kazakhstan government. He never traveled to Kazakhstan. If the FN tried to coerce Applicant, he would immediately report any effort to security personnel. Applicant’s preferred loyalty is to the US over Kazakhstan. (Tr. 115-118)

Applicant is very close to his father even though his contact is less when his father is in Turkey. Applicant is willing to cease all contact with the FN immediately. Applicant is amenable to taking remedial action and accept a conditional clearance. (Tr. 166-168)

SOR ¶ 1. c – Applicant’s father is 64 years and was born in Turkey. He is a dual citizen, dividing his time between Turkey and the US. For the last three or four

years because of the Covid-19 pandemic and health issues, his primary residence has been Turkey. (Tr. 59) Applicant's mother, also a dual citizen of the US and Turkey, is married to Applicant's father and has been living in the US for at least 20 years. (GE 1 at 23-24) The father still works part time. The father furnished justification for the updated value amounts of the family's real property, his personal bank accounts, and his shares in his Turkish company. (SOR ¶ 1.e - Tr. 32-34; SOR ¶ 1.f – Tr. 39; SOR ¶ 1.g – Tr. 41). His father believes Applicant has dual citizenship. Applicant and his father talked about whether Applicant was willing to revoke his Turkish citizenship, but he never stated directly that Applicant was willing to revoke that citizenship. The father recalled that Applicant had articulated no intent for future travel to Turkey. Applicant has no real property or bank accounts in Turkey. Applicant's younger brother has dual citizenship. His father indicated that Applicant owns no property in the US. He has a bank account, owns a car, and he votes in US elections. The father did not believe that Applicant had ever voted in Turkish elections. (GE 1 at 24; Tr. 18, 23-27)

Based on his desire to help less fortunate Turkish children, Applicant's father intends to convert his Turkish financial interests into a foundation. When it is created, the legal structure will provide a shield protecting the assets of the foundation. Until the foundation is established, Applicant's share of his father's Turkish financial interests is 33% to be shared with his older brother and mother (the father's wife). (Tr. 36-42)

Applicant's father was surprised that Applicant wanted to marry the FN, preferring that Applicant finish college while he was getting to know her. Though his memory was not good in recalling events, the father surmised that the affair with the FN ended after a year and before the onset of the Covid 19-pandemic. The father testified that as a result of the security investigation, Applicant has learned that he should examine people more closely and not make snap judgments. The father considers Applicant to be dependable, honest, and not a threat to the national security of the US. (Tr. 47-52)

SOR ¶ 1.d – Applicant's father has a 44-year-old brother who is Applicant's uncle and married. He and his wife (Applicant's aunt) were born in Turkey. He is a financial consultant, and his wife is a housewife. He received his education at two US institutions. Neither he nor she have any ties to the Turkish government. The record is silent on the level of contact that Applicant has with these two relatives. Applicant's father did not believe that there was much contact with the other four aunts and uncles. He opined that Applicant spoke with the son of Applicant's uncle (Applicant's cousin) every now and then. The cousin is a US citizen living in the US where he works as a financial consultant. Applicant's father testified that communication with the other foreign family members was either non-existent or infrequent. None of the foreign family members are employed by the Turkish government. (Tr. 43-47)

SOR ¶ 2.a – Sexual behavior as set forth in SOR ¶¶ 1.a 1. b. Applicant submitted a psychological report dated May 24, 2024. (GE D) In the report the psychologist reviewed his evaluation and testing of Applicant on May 20, 2024. The

evaluation chronicled Applicant's non-addictive interest in internet pornography and three long distance relationships. Applicant indicated to the psychologist that he was confused about the definition of a "foreign national" and had to research the term online. He told the psychologist that he had problems dating in person because of nervousness. He found it easier to meet someone online. Following Applicant's test results of the Mini-Mental State Examination (MMSE), which revealed that Applicant had good reading and writing skills, the psychologist found that he had no other issues except for dating. He found that Applicant had no mental condition under the Diagnostic and Statistical Manual of Mental Disorders-V (DSM-V).

SOR ¶¶ 3.a and 3b – Applicant testified that he omitted the FN's name from his April 2022 e-QIP (Applicant was 27 years old at the time) because he was undergoing a public trust investigation simultaneously with a security clearance investigation. He was receiving calls from different government agents and did not have the correct packet of information available when he filled out the April 2022 e-QIP. He indicated that he was answering the questions from memory. (Tr. 113) I do not understand why he would have to utilize his memory to answer the two questions (Section 19 and 20A) truthfully.

Another reason Applicant provided for omitting information about the FN from his April 2022 e-QIP was that he did not understand what a foreign national was. Another reason was that he just made a mistake because he was confused. While he claimed that he did not intentionally omit the information about the FN, he knew the FN was a Kazakhstan citizen because he had seen her passport. He knew she was not a US citizen. She never indicated to him that she was a dual citizen. Another reason for the missing information was that he was unable to see what information he had entered (on the April 2022 e-QIP) as an answer. Initially, he testified that he did not recall the FN relationship in detail because it was a long time ago. Subsequently, he indicated that he had no memory of the FN when he filled out the April 2022 e-QIP. (Tr. 113-114, 126-131)

A month after he completed his e-QIP, Applicant furnished missing information about the FN in his May 2022 PSI. To prevent this problem from recurring in the future, Applicant has taken training regarding foreign intelligence, reporting, and other webinars that improve his awareness of security issues. He does not intend to complete another e-QIP without obtaining legal advice. (Tr. 115-118)

Though Applicant still uses pornographic sites currently, only text and not his face appear in any of the transmissions. The last time he was on a pornographic site was in late 2023, and he may have paid between \$20 and \$40 for private shows. Before the latter part of 2023, Applicant was in a physical relationship for about a year and did not use the pornography sites. Before the physical relationship, Applicant visited the pornographic sites about three times a week. The only person that he ever had an individual relationship in a pornographic setting was the FN. He tries to limit control over his pornographic activity by paying close attention to the cost. (Tr. 150-157)

Applicant and the FN have been texting each other every two weeks since the SOR was issued in August 2023, because he needed to obtain a character reference from her. She messages Applicant when she is on work-related trips as a flight attendant. The FN has sent him flirtatious pictures and one or two nude photos since they resumed contact in August 2023. (Tr. 159-164)

Character Evidence

Applicant's friend, Reference C, a project specialist for women's services, testified that he has known Applicant since 2013. In 2019, Applicant sponsored Reference C's residency petition. He was uncertain whether Applicant desires to renounce his Turkish citizenship. The last time Applicant traveled to Turkey was in 2019. Reference C surmised that Applicant may want to go to Turkey at some time in the future because he has family members there. Reference C believes Applicant's loyalty is to the US because he was born in this country, he lives here, and he works for the federal government. Applicant's mother and grandmother live in the US. The friend was aware that Applicant was in a serious relationship with FN in the 2018-to-2019-time frame, and he probably sent her money because he wanted to help her. Reference C considers Applicant to be a trustworthy and reliable person who is not a security threat to the US. (Tr. 66-78; AE C)

The second character statement is from another friend (Reference B) who has known Applicant since high school. During their attendance at the same college, Reference B praised Applicant's eagerness to assist other students with college assignments and to utilize his time wisely. (AE C)

Reference D, Applicant's brother and only sibling, considers Applicant to be a supportive person. He takes good care of their grandmother, while showing kindness to Reference D's two children. Due to marital problems, Reference D has been living with Applicant for the last seven months with no problems. (AE F)

On May 28, 2024, Reference E, the task leader of Applicant's data team and his supervisor, indicated that Applicant has been a member of the data team since 2022. Reference E has found Applicant to be reliable and professionally dedicated to the team's mission. He recommends Applicant for a security clearance. (AE E)

Applicant's performance evaluations for 2022 and 2023 show certain work assignments either in-progress or completed. (AE B)

Administrative Notice – Republic of Turkey

Turkey is a constitutional republic with an executive branch and a 600-seat parliament. The friendship between Turkey and the US dates to 1831 when the US established diplomatic relations with the Ottoman Empire. Turkey has been an

important security partner in the North Atlantic Treaty Organization (NATO) since joining the organization in 1952.

Turkey has demonstrated its dedication to eliminate terrorist organizations inside and outside of the country. Occasionally, the country's broad definition of terrorism includes crimes against internal constitutional order which impinges upon freedom of expression and peaceful assembly of its citizens.

Human rights abuses persist in Turkey, and the Turkish government has taken marginal action against the abusers. The US State Department advises US citizens to exercise elevated caution when traveling to Turkey due to terrorist activities, which target tourist locations, commercial establishments, and other public areas. Security forces have detained some American citizens based on thin evidence.

Administrative Notice - Kazakhstan

The country is a constitutional republic where most of the governmental power rests with the president. The government executive branch controls the legislature, the judiciary, and regional, and local governments. Since Kazakhstan's independence in 1991, the US slowly increased ties with the country, and has been in a strategic partnership since 2018. In 2023, the US State Department issued a "Level 1: Exercise Normal Precautions" for Kazakhstan.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied together with common sense and the general factors of the whole-person concept. The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, before rendering a decision. The protection of the national security is the paramount consideration. AG ¶ 2(d) 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 applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

Analysis

Guideline B: Foreign Influence

AG ¶ 6 sets forth the security concerns under Guideline B:

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 nature of a country's government, its relationship to the United States, and its human rights record, are relevant subjects to consider in evaluating the chances that an applicant's foreign family members are vulnerable to pressure or influence by a foreign government or interest that may cause Applicant to violate security regulations. Terrorist organizations continue to operate inside and outside of Turkey, occasionally threatening US interests. The government has a poor human rights record and could be more aggressive in combating human rights abusers without disturbing the freedom of expression and peaceful assembly of the country's citizens. When evaluating an applicant's ties to foreign family members, the totality of an applicant's foreign family ties as well as each individual family tie must be considered. Conditions under AG ¶ 7 that could raise a security concern and may be disqualifying include:

- (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.

Contacts and ties with family members who are citizens of a foreign country do not automatically disqualify an applicant from security clearance eligibility. As set forth under AG ¶ 7(a), the contacts are only disqualifying if they create a heightened risk of foreign exploitation. The record discloses that when Applicant completed and certified his e-QIP in April 2022, he concealed his relationship with FN and the monetary gifts he provided her since their relationship began in 2017. Though he acknowledged the affair one month later in his May 2022 PSI, he revived the contact in August 2023 in order to receive a character reference from the FN.

In addition, the record reflects that Applicant's father, a dual citizen of the US and Turkey, has spent most of his time in Turkey over the last three or four years. He has amassed approximately \$3,021,000 in financial interests in the country that are described in SOR ¶¶ 1.e, 1.f, and 1g. Applicant considers himself close to his father, though his contacts are not as frequent when he is living in Turkey. Applicant has an uncle, aunt, and cousins, who are citizens and residents of Turkey.

Except for this father, Applicant's contacts with the other listed foreign family members have been infrequent or nonexistent. While his family members, including his father, have no link to the Turkish government, the totality of these contacts and the threat of terrorism in Turkey generate a heightened risk of coercion or exploitation under AG ¶ 7(a) and a potential conflict of interest under AG ¶ (7)(b).

The Turkish financial interests of Applicant's father, a percentage of which are Applicant's future interests, are identified in SOR ¶¶ 1.e, 1.f, and 1.g, raise a heightened risk of foreign influence within the purview of SOR ¶ 7 (f) of the foreign influence guideline.

Conditions under AG ¶ 8 that could mitigate security concerns include:

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

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

individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

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

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

AG ¶ 8(a) applies to Applicant's uncle, aunt, and cousins, citizens and residents of Turkey because of Applicant's scant contact with them, and their positions are such that Applicant will not be placed in a position of having to choose between their interests and the interests of the US. While Government operatives or insurgent groups could exert pressure on Applicant through his foreign family members to obtain U.S. classified or sensitive information, Applicant's negligible contact substantially reduces this possibility.

Regarding Applicant's uncle, aunt, and cousins, there is sufficient mitigating evidence to find AG ¶ 8(b) in Applicant's favor. He and his brother are US citizens who have been living in the US for a long period of time. His mother is a US citizen who has been living in the US since 2001. Not much is known about Applicant's grandmother except that she lives with Applicant and his mother. Applicant has been working for his current employer since 2022 and has previously been employed in American jobs. Applicant's last trip to Turkey was in 2019.

Except for Applicant's father, Applicant's casual and infrequent contact with the other foreign family members presents little likelihood that they could create a risk of foreign influence. AG ¶ 8(c) applies.

The size of Applicant's father's financial interests in Turkey compared to his financial interests in the US removes AG ¶ 8(f) from consideration. His father's financial interests in Turkey amount to more than \$3,000,000. In contrast, Applicant's financial interests in the United States amount to a bank account and an automobile.

Considering all the evidence under the foreign influence guideline, Applicant has established that his uncle, aunt, and cousins, who are citizens and residents of Turkey, do not create security concerns under foreign influence. However, his hidden relationship with the FN and his father's current financial interests in the country have not been mitigated. The father's objective to convert the interests into a foundation or trust in the future is still in the planning stage, therefore carries very little probative weight.

Guideline D: Sexual Behavior

AG ¶ 12. Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. Sexual behavior includes conduct occurring in person or via audio, visual, electronic, or written transmission. No adverse inference concerning the standards in this Guideline may be raised solely based on the sexual orientation of the individual.

AG ¶ 13. Conditions that could raise a security concern and may be disqualifying include:

- (a) Sexual behavior of a criminal nature, whether or not the individual has been prosecuted;
- (b) pattern of compulsive, self-destructive high-risk behavior that the individual is unable to stop;
- (c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress; and
- (d) sexual behavior of a public nature or that reflects lack of discretion or judgment.

There is no evidence in the record indicating that Applicant's sexual behavior was criminal in nature. AG ¶ 13(a) has not been established. There is no evidence inferring or suggesting that Applicant's sexual activity with the FN and other females in a pornographic setting, was self-destructive or a high-risk type of behavior. AG ¶ 13(b) does not apply. However, his resumption of contact with the FN since August 2023, demonstrates a lack of judgment and makes him vulnerable to exploitation, duress, and coercion. AG ¶¶ 13(c) and 13(d) apply.

AG ¶ 14. Conditions that could mitigate security concerns include:

- (a) the behavior occurred prior to or during adolescence and there is no evidence of subsequent conduct of a similar nature;

(b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

(c) the behavior no longer serves as a basis for coercion, exploitation, or duress;

(d) the sexual behavior is strictly private, consensual, and discreet; and

(e) the individual has successfully completed an appropriate program of treatment, or is currently enrolled in one, has demonstrated ongoing and consistent compliance with the treatment plan, and/or has received a favorable prognosis from a qualified mental health professional indicating the behavior is readily controllable with treatment.

AG ¶ 14(a) does not apply to the facts of this case because Applicant was 23 years old when he began viewing the FN on pornographic websites. The applicability of AG ¶ 14(b) depends on whether the conduct was recent or occurred a long time ago. The passage of time since the sexual behavior ended should include positive evidence of changed circumstances aimed at reform that substantially reduces the risk of future recurrence. There is insufficient evidence to conclude that the sexual behavior is unlikely to recur, casting residual doubts on Applicant's judgment and continuing to expose him to coercion and duress. The disqualifying evidence under AG ¶¶ 14 (b) and (c) is given more credence than the evidence presented by the psychologist in May 2024.

Guideline E: Personal Conduct

The security concern for personal conduct is set forth in AG ¶ 15:

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 information. Of special interest is any failure to provide truthful and candid answers during the national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation or further processing for national security eligibility.

The potential disqualifying conditions under AG ¶ 16 are:

(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;

(c) credible adverse information in several adjudicative areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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 he may not properly safeguard classified or sensitive information;

(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:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information ...

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

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources.

On August 27, 2023, Applicant admitted all allegations in the SOR dated August 17, 2023. He admitted that he falsified his April 2022 e-QIP by concealing his relationship with the FN (Section 19), and by concealing the financial support he provided to her (Section 20A). A month later in May 2022, Applicant provided several explanations for the omissions. To his claim that he did not understand what a foreign national was, I do not find his claim credible because he had seen the FN's Kazak passport. To his claim that he was involved in two investigations at the same time, that claim does not make sense given the simple and straightforward definition of "foreign national." To his claim that he could not remember details of the relationship or could not remember the contacts at all due to the passage of time, this was not an overnight relationship with FN but an affair with talk of marriage. Applicant resumed the contact in August 2023.

At the hearing, Applicant denied the relationship began in February 2017 as he stated in his May 2022 PSI, but rather in late fall of that year. He denied the relationship lasted until April 2022 as he stated in his May 2022, but rather in 2018.

None of Applicant's explanations in the above paragraph were mentioned in his August 2023 responses to DOHA interrogatories. In two locations of that exhibit, Applicant was asked whether he had any corrections to make to May 2022 PSI. In the two locations, Applicant indicated that he had no changes or modifications to make and provided his signature in each location. He signed the exhibit on August 10, 2023, seven days before he admitted all allegations in his responses to the SOR dated August 17, 2023.

Based Applicant's conflicting explanations for omitting relevant information about the FN in his May 2022 e-QIP, I do not find the revised dates of the affair as credible. AG ¶ 16 (a) applies to SOR ¶¶ 3(a) and 3(b).

AG ¶ 17. Conditions that could mitigate security concerns include:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated truthfully;

(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; and

(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.

AG ¶ 17(a) does not apply because Applicant's myriad of explanations makes each explanation less credible. The unpersuasive explanations were not minor even though the omissions occurred in April 2022. The reasons for the omission continue to negatively affect Applicant's overall judgment and trustworthiness. (AG ¶ 17(c) does not apply.

Whole-Person Concept

I have examined the evidence under the specific guidelines in the context of the nine general factors of the whole-person concept 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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant is a US citizen who has lived with his mother and grandmother since 2001. He graduated from a US high school in 2013 and a reputable US college in 2020. He has worked for his employer since 2022. His performance evaluations appear to show he is progressing productively. His supervisor believes that he is a hard worker who exhibits professionalism. His friends admire his helpful and friendly attitude.

Because I am obligated to evaluate the evidence as a whole, I address the evidence that weighs against Applicant's security clearance application. His regular contact with the FN is ongoing. His potential inheritance of his father's financial interests is likely to result in a conflict of interest that exposes him to potential pressure, coercion, and influence. Applicant's inconsistent reasons for omitting material information from his April 2022 e-QIP substantially undermines his overall credibility under the personal conduct guideline. Having weighed all the evidence under the specific conditions in the context of the whole-person factors, Applicant has not mitigated the security concerns arising from the foreign influence, sexual behavior, and personal conduct guidelines.

Formal Findings

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

Paragraph 1, (Guideline B):	AGAINST APPLICANT
Subparagraphs 1.a, 1.b, 1.c, 1.e, 1.f, 1g:	Against Applicant
Subparagraph 1.d:	For Applicant

Paragraph 2 (Guideline D):	AGAINST APPLICANT
Subparagraphs 2.a, 2.b:	Against Applicant
Paragraph 3 (Guideline E):	AGAINST APPLICANT
Subparagraphs 3.a, 3.b:	Against Applicant

Conclusion

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

Paul J. Mason
Administrative Judge