



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



In the matter of:)
)
) ISCR Case No. 24-00213
)
Applicant for Security Clearance)

Appearances

For Government: Mark D. Lawton, Esq., Department Counsel
For Applicant: Sean Rogers, Esq.

08/27/2025

Decision

HALE, Charles C., Administrative Judge:

Applicant mitigated security concerns raised under Guidelines B (foreign influence) and C (foreign preference), but he did not mitigate security concerns raised under Guideline E (personal conduct). Eligibility for access to classified information is denied.

Statement of the Case

On March 22, 2024, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines E, B, and C. Applicant responded to the SOR on June 26, 2024, and requested a hearing before an administrative judge. On September 5, 2024, the Government was ready to proceed. The case was assigned to me on January 13, 2025.

The hearing was convened as scheduled on April 22, 2025, via video teleconference. Government Exhibit (GE) 1 through GE 3 were admitted in evidence without objection. Applicant testified and offered Applicant Exhibit (AE) A through AE V, which were admitted without objection. The Government's discovery letter and exhibit list

were marked as hearing exhibits (HE) I and II respectively. The Defense Office of Hearings and Appeals (DOHA) received the initial transcript and final transcript (Tr.) on May 1, 2025. The record was held open until May 6, 2025. Neither side offered any additional evidence.

Administrative Notice

I take administrative notice of facts concerning Nigeria. Those facts are set out in the Government's Request for Administrative Notice for the Federal Republic of Nigeria (HE 2). The facts administratively noticed are limited to matters of general knowledge and matters not subject to reasonable dispute. The pertinent facts are as follows:

Nigeria is a federal republic composed of 36 states and the Federal Capital Territory. Nigeria faces many challenges fueled by sectarian, religious, and ethnic violence. Numerous terrorist groups are increasingly active throughout Nigeria. Threats of kidnapping and violence are high, and the Department of State warns U.S. citizens that all travel to Nigeria should be avoided. Of particular significance are the poor human rights record; the active and hostile presence of Boko Haram and ISIS-West Africa; and other insurgent and extremist groups that generate instability and openly attack police, security and military forces, the local populace, and U.S. citizens and interests.

Nigeria is a global hub for cybercriminal activity. The U.S. has partnered with Nigerian law enforcement to crack down on cybercrime. U.S. authorities have brought charges against a number of Nigerian nationals for internet fraud and money laundering.

In its February 2023 Annual Threat Assessment, the Office of the Director of National Intelligence (ODNI) reported that transnational criminal organizations (TCOs) threaten U.S. and allied public safety, undermine the integrity of the international financial system, and erode the rule of law in partner nations. These challenges directly impact U.S. national security by driving irregular migration issues, spurring criminality and violence, and advancing the interests of some U.S. adversaries. TCOs engage in illicit drug production and trafficking, human trafficking, human smuggling, money laundering and financial crimes, and cybercrime that directly impacts the United States. African transnational organized crime groups have developed quickly since the 1980s due to globalization and advances in technology. Nigerian criminal enterprises are the most significant of these groups and operate in more than 80 countries of the world, including the United States. They are primarily engaged in drug trafficking and financial fraud, including a number of internet-enabled crimes and scams. They commonly use money mule networks to launder proceeds.

The U.S. Department of State advises travelers to Reconsider Travel (Level 3) to Nigeria due to crime, terrorism, civil unrest, kidnapping, and armed gangs. Violent crime - such as armed robbery, assault, carjacking, kidnapping, hostage taking, roadside banditry, and rape - is common throughout the country. Kidnappings for ransom occur frequently, often targeting dual national citizens who have returned to Nigeria for a visit, as well as U.S. citizens with perceived wealth. Kidnapping gangs have also stopped

victims on interstate roads. The Department of State also advises Do Not Travel to: Barno, Yohe, Kogi, and northern Adamawa states due to terrorism and kidnapping; Bauchi, Gombe, Kaduna, Kano, Katsina, Sokoto and Zamfara states due to kidnapping; and Ahia, Anambra, Bayelsa, Delta, Enugu, Imo, and Rivers states (with the exception of Port Harcourt) due to crime, kidnapping, and armed gangs. (HE II.)

Findings of Fact

The Government alleged nine falsification allegations under Guideline E. In his Answer to SOR ¶¶ 1.a - 1.i, Applicant admitted providing false information but denied doing so intentionally. He denied that he intentionally falsified material facts in Section 10 – Dual/Multiple Citizenship Information on his July 2015 e-QIP and March 2022 e-QIP (SOR ¶¶ 1.a - 1.d) and that he could not recall the information he was confronted with by a DoD investigator and had answered to the best of his knowledge at the time. Applicant's answers to Guideline E will be treated as denials.

Guideline B allegations (SOR ¶¶ 2.a and 2.b) involve Applicant's two sisters who are residents of Nigeria and that between 2015 and 2016 he owned a business, which operated a "scheme" to transfer money from Nigerian citizens in the United States to individuals in Nigeria. He admits he has sisters in Nigeria who are citizens and residents of Nigeria. He said that he owned a "legitimate" Nigerian business during the period alleged and objected to characterizing the business as a "scheme." He admitted the Guideline C allegations, SOR ¶¶ 3.a and 3.b, with a mitigating explanation.

Applicant is a 37-year-old employee of a defense contractor. He has been with his employer since January 2021 and has worked as an information security analyst since September 2023. After entering the United States in late 2008, he became a U.S. citizen in 2014. In 2014, he earned his bachelor's degree in a medical discipline. He worked in the healthcare industry and then joined the U.S. Army in 2015. He served in a medical military occupational specialty. He served honorably on active duty until 2020, when he was medically retired. While in the Army he received his first security clearance. After the Army he returned to school and earned his master's degree in informatics and computer science in 2020. He married in 2016. His wife was already a U.S. citizen when they married. They have three children, all born in the United States. (GE 1; AE I; Tr. 25-26, 28-32, 48-49.)

Applicant completed e-QIPs in July 2015 and March 2022 and was interviewed by a DoD investigator in April and June of 2022. (GE 1 - GE 3.)

Personal Conduct

SOR ¶¶ 1.a, 1.b, 1.c, 1.d, 1.g, 3.a: Applicant denied he falsified Section 10 – Dual/Multiple Citizenship Information on his July 2015 e-QIP and March 2022 e-QIP, regarding his statement on both e-QIPs that he had renounced his Nigerian citizenship through the appropriate channels and that he told a DoD investigator in April 2022 that he "never used [his] foreign passports after [he] became a US citizen or over a US

passport” and that his “more recent Nigerian passport was cancelled when [he] became a US citizen” or that he told the investigator that he “cannot use either foreign passport because both are expired and [he] renounced [his] Nigerian citizenship” and that he had “no intent on renewing [his] foreign passports.” Applicant admitted in response to February 2024 Government interrogatories that he renewed his Nigerian passport in October 2018. (GE 3 at 35.)

Applicant on both e-QIPs stated that he had “renounced [his] Nigerian citizenship through appropriate channels.” He stated that he had “terminated” his 2014 Nigerian passport, shortly after receipt of his U.S. passport. He received his U.S. passport in May 2014, and his U.S. passport expired in March 2024. He blames security officers for this issue because his “Nigerian passports were not taken from [him] by the security officer, so [he] assumed [he] could keep it.” He blames his S-2 for not explaining dual citizenship or getting a “special briefing regarding citizenship and clearance.” On his Government interrogatory response he stated “I currently do not have an unexpired Nigerian passport.” (GE 1 at 10, GE 2 at 8-9, GE 3 at 9, 11; Tr. 57-58.)

Applicant in his interrogatory response admitted his use of the Nigerian passports but explained he used them for security reasons. He cited wanting to “avoid traces” so as to not disclose his identity to potential kidnappers. He referenced kidnappings and being “terrified” after hearing stories online and on social media. He confirmed in his testimony he always traveled to Nigeria under his Nigerian passport and that the reason was for personal security. (GE 3 at 36; Tr. 43, 60, 62.)

Applicant admitted in his testimony that he used the renewed Nigerian passport to travel to and from Nigeria from December 14, 2018, to January 16, 2019; December 26, 2019, to January 5, 2020; and from December 22, 2021, to January 13, 2022. He stated this was the last time because he had come to realize he “had to go through the right channel.” (Tr. 59.) After returning from Nigeria in January 2022, he completed his March 2022 e-QIP and failed to mention his Nigerian passport. He denied intentionally failing to disclose his renewal of his passport. (Tr. 63.) He claimed, “I found out that I have a passport that is still not expired.” (Tr. 64.) He also blamed the e-QIP, which he said prepopulated past information.

When asked if only he admitted his use of his Nigerian passport because he feared he might not be granted a security clearance he replied:

It doesn't matter to me because I felt like saying the truth and doing the right thing was what is best at that point, but like I said, I did not do it intentionally. (Tr. 63.)

In Applicant’s Answer, he noted his formal request for renunciation of his Nigerian citizenship was received on April 30, 2024. (AE J, AE K.) The SOR was issued in March 2024. He offered AE U and AE V, his renunciation of his Nigerian citizenship paperwork, dated in April 2025, as mitigation. Applicant renewed his Nigerian passport in 2018, after asserting in his 2015 e-QIP that he had renounced his Nigerian citizenship and that he

had no intention of renewing his Nigerian passport. He used his Nigerian passport, which had been issued to him in 2014, on the following occasions: June 2014, June 2015, December 2016, January 2017, December 2018, January 2019, December 2019, January 2020, December 2021, and January 2022.

Applicant in his Answer stated he did not understand that he was providing incorrect information at the time and stated he now understands fully the status of his Nigerian citizenship and the potential security concerns revolving around dual citizenship. He testified that in 2022 or 2023 he began to realize his Nigerian passport was security concern and he did research for what he had to do to relinquish the passport. He stated he regrets his conduct but emphasizes that he is committed to transparency and candor in this process and has provided all relevant information to the process, to include providing information to the assigned investigator and fully responding to Government interrogatories. (Answer; AE J, AE K, AE U, AE V; Tr. 44-45.) He testified that he told the DoD investigator he never used his Nigerian passport after he became a U.S. citizen and that his Nigerian passport was expired because the “question was not clear at that point. So, whatever I answered was what I understood during that point.” (Tr. 57-59, 65-66.)

SOR ¶ 1.e, 1.f, 1.h, 1.i, 2.b: Applicant between 2015 and 2016, owned a business named GC, that involved buying used devices and sending them to Nigeria. He did not disclose the business either on his 2022 e-QIP or during interviews in April and June of 2022, with a DoD investigator. During these interviews he was asked about financial accounts, financial transfers, deposits, and amounts related to GC and the used devices, which he did not disclose until confronted by the DoD investigator. Applicant admitted that in the 2014-2015 period he began to collaborate with a childhood friend who sold used devices that people in the United States no longer used but are still in use in Africa. His friend advised to do more research about it so that he could help his friend buy these devices and ship them Africa because his friend had no assets to do that. Applicant acknowledged he was helping his him out to buy these devices and sending them to Nigeria. (Tr. 32.) Applicant did not intend the business to be his primary source of income. He estimated he made over seven shipments. He stated his own money was not involved and he was sent the money to buy the devices based on the cost of the devices, plus the shipping cost. He would go online, buy the devices on eBay and ship them in his spare time. He would package them and put them in a box and shipped everything to his friend who would collect the devices and sell them. Regarding whether he made any money on the business he stated, “I didn't make any. It wasn't for profit. I didn't make money.” (Tr. 34-35, 49-50 68-69; GE 3 at 40-54.)

Applicant was interviewed by a DoD investigator in April and June 2022 about his financial transactions related to his former business, GC. He admitted “providing incorrect responses to questions surrounding his former business, GC, but denied doing so intentionally.” He stated in his response to Government interrogatories that he had “taken time to recall ... this information is true.” He admitted this money in these financial transactions came from the sale of the used devices that his friend handled. (Tr. 70; GE 3 at 6.)

Applicant asserts he provided all information requested and he did not recall the information when he was confronted and answered the investigator's questions to the best of his knowledge at the time. He no longer has any financial or property interests in Nigeria. He does not provide financial support to anyone in in Nigeria. (Tr. 49-50.)

At the hearing Applicant restated at the time he was confronted "there was nothing to recall." It was only after he received the Government interrogatory that he "took some time" and went back and did "some research and found out that" he had done the transactions. (Tr. 66-67.) He cited the nature of the question from the DoD investigator as the problem:

When I was asked, the question was more like, do you have an account in [Bank B]? He didn't specifically say -- and this is something that I don't use anymore. It's been over seven years. It's something I don't use anymore, and I don't have offhand the last four of the checking. So if I was asked, do I have an account at [Bank A], I would 100 percent say yes because there's nothing to hide. (Tr. 70-71.)

Applicant acknowledged in response to Government interrogatories that the bank records indicating he was the sole proprietor and authorized signer of GC were accurate. After a year in the business, he stopped because he wanted to focus more on his job and because "there was a fraud that was committed using my account...so I stopped it." (Tr. 33.) Applicant claimed/testified he did not make money on the venture, so he did not report it as a business. He described it as something he did on his "leisure time." (Tr. 34-35.)

The DoD investigator confronted Applicant in April 2022 (SOR ¶ 1.h) about "having [commercial service] payments" from May to August 2015 totaling about \$20,849 at locations that included [Business C] and two [Business As] in [City 2] and [City 3]. He denied these transactions to the DoD investigator but after investigating and researching the matter he admits he was involved in these transactions. He blames this nondisclosure on thinking of this as "employment or a business." (Tr. 37, 38, 67.)

In the June 2022 background interview, a DoD investigator confronted Applicant concerning "a business checking account" for GC that received 54 deposits totaling \$81,843 between August 2015 and August 2016 (SOR ¶ 1.i). He started the business in 2015 and ran it for about a year. He admitted having the checking account, which he opened in July 2015 and the transactions. He described it as a coincidence that he traveled to Nigeria in the summer of 2015 and when he came back and opened a business account for GC shortly thereafter. (Tr. 69-70, 99-101.) When asked why he did not tell the DoD investigator the account and money transactions, Applicant stated:

Yes, because first and foremost, I have nothing to hide. It was not intentional. There was nothing to hide because I already know the process. If you hide anything, they're going to find out. The way the question was worded, it was worded more like [business A] maybe, [business B]? Is it

something you have transferred at [business B]? So I was like, I don't have any -- I've not done any transactions. I don't have any accounts at [business B]. After many years, after a few, I did my research doing the interrogatory statements. I Googled. I found out that [Bank A] was in -- it's like a plaza, a mini city in [City 1], . So if I was asked, do you have an account with [Bank A], and then -- if you ask me, do you have an account statement or account balance ending in [#####], I don't even know the last four. The question was not asked in a way for me to understand. So there was nothing to hide at that point. (Tr. 36-37.)

Applicant was not credible. His answers for his statements concerning his business activities and financial transactions were nonsensical given the direct nature of the questions, the dollar amounts, and requirements to acquire and ship the devices to Nigeria.

Applicant blamed the bank for creating the confusion. He stated:

I told them what I wanted, that it was just -- the reason why I'm opening this account is because, this business account is because some of these vendors, they wanted a registered -- something registered in the U.S. You have a business, you have something to show that. This is a business account. So that's what I thought. And they said, okay, they are going to put it under sole proprietor. I told them it's not a business of filing tax. The lady who helped me open the account at that point put it under sole proprietor and then gave me a debit card. So, I didn't think it was more like -- it wasn't something I did -- it was for myself. So that's why there was nothing to -- it didn't come to my knowledge to put it on there as an employment. (Tr. 38.)

Foreign Influence

SOR ¶ 2.a: Applicant admits his older two sisters are citizens and residents of Nigeria. Neither sister works in a position involving the government. His father is their sponsor. They have begun the process to obtain visas to come to the United States. Applicant is one of six children, two boys and four girls. His other two sisters live in the United States as does his younger brother. (Tr. 22-23, 43, 48-51, 60, 62, 98-99.)

SOR ¶ 2.b alleges Applicant's business is a "scheme" to transfer money from Nigerian citizens in the United States, to individual citizens in Nigeria, between 2015 and 2016. SOR ¶ 2.b is discussed above under Guideline E. There is no evidence GC has operated since 2016. He has no bank accounts in Nigeria. (Tr. 98-99.)

Foreign Preference

Applicant's renewal of his Nigerian passport in 2018 (SOR ¶ 3.a) and use of his Nigerian passport (SOR ¶ 3.b) were discussed above in conjunction with the alleged falsifications under Guideline E. In explaining his use of his Nigerian passport, he cited

fear of kidnappers. Applicant has renounced his Nigerian citizenship, and his Nigerian passport has expired. He has not destroyed it because he was told by his security officer at his company, he could hold on to it as a “souvenir.” He currently has a five-year visa to travel back to Nigeria while traveling on his U.S. passport. (GE 3; AE U, AE V; Tr. 43, 46-48, 51, 98-99.)

Whole Person

Applicant submitted his Army records, which included his Army Commendation Medal citation, Good Conduct Medal, and DD Form 214 that reflected his honorable service. (AE E, AE F.) He had a number of character letters. His colleagues and witnesses describe him as a person of ethics, team player, compassionate, always willing to help, with good problem-solving skills, who is honest and trustworthy and a person who loves America. He supported these letters and testimony with school transcripts and certificates of certification, along with his personal statement showing academic achievement and commitment. He is currently enrolled in the honors program for an advanced technology course so that he can expedite the program. (Tr. 46, 102-160; AE L – AE S.)

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

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15, 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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are applicable:

(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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative.

Applicant acknowledged the omissions on his e-QIPs and to investigators during his interviews but denied he deliberately failed to disclose the required information on his e-QIPs or to investigators. He blamed the e-QIP, the banks, and the nature of the question for not disclosing the information on e-QIP or in an answer to the DoD investigator's questions. The record supports that he deliberately failed to disclose or concealed his information on his e-QIPs and during his security clearance interviews. AG ¶¶ 16(a) and 16(b) are applicable to SOR ¶¶ 1.a through 1.i.

The following mitigating conditions under AG ¶ 17 are potentially applicable:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of 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 fully and truthfully.

AG ¶¶ 17(a) and 17(b) are not established for SOR ¶¶ 1.a through 1.i. Applicant falsified material facts on two e-QIPs and during personal subject interviews in April and June of 2022. Applicant was not credible. He is well educated and served in the U.S. Army. His explanations about his answers and omissions were nonsensical. Applicant's business was a major part of his life for at least a year. His work with GC came relatively early in his Army enlistment. He did not disclose the large financial transactions associated with GC when asked. His explanations for why he said yes to renouncing his Nigerian citizenship are simply not credible given the direct nature of the question. Similarly, his explanation regarding his use of his Nigerian passport after saying it was terminated is not credible given the straightforward nature of the question. He even renewed his Nigerian passport in 2018.

The Appeal Board has said an "applicant's statements about his intent and state of mind when he executed his Security Clearance Application were relevant evidence, but they were not binding on the Administrative Judge." ISCR Case No. 04-09488 at 2 (App. Bd. Nov. 29, 2006) (citation omitted). In ADP Case No. 17-03932 at 3 (App. Bd. Feb. 14, 2019) the Appeal Board recognized the importance of circumstantial evidence of intent in falsification cases:

When evaluating the deliberate nature of an alleged falsification, a Judge should consider the applicant's *mens rea* in light of the entirety of the record evidence. See, e.g., ADP Case No. 15-07979 at 5 (App. Bd. May 30, 2017). As a practical matter, a finding regarding an applicant's intent or state of mind may not always be based on an applicant's statements, but rather may rely on circumstantial evidence. *Id.*

Applicant was not credible. He is well educated and served in the U.S. Army. Given his life experiences, his answers and explanations for his false statements were not credible.

Guideline B, Foreign Influence

The security concern under this guideline 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.

Guideline B is not limited to countries hostile to the United States. “The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States.” ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). Furthermore, “even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security.” ISCR Case No. 00-0317 (App. Bd. Mar. 29, 2002).

Three disqualifying conditions under this guideline (AG ¶ 7) are relevant to 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.

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 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).

To establish AG ¶ 7(a), the Government must demonstrate a “heightened risk” of exploitation due to Applicant's contacts with his family members in Nigeria. Given the activities of the Nigerian government and significant human rights violations, terrorist activities, cybercrime, and money laundering, I find the Government has established the requisite “heightened risk” and potential conflict of interest regarding Applicant's contacts with his family members in Nigeria as well as his business activities in Nigeria. AG ¶¶ 7(a), 7(b), and 7(f) apply.

The following mitigating conditions under this guideline (AG ¶ 8) are potentially relevant:

(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.

There is a rebuttable presumption that a person has ties of affection for, or

obligation to his or her immediate family members. ISCR Case No. 07-06030 at 3 (App. Bd. June 19, 2008); ISCR Case No. 05-00939 at 4 (App. Bd. Oct. 3, 2007) (citing ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)). Applicant's relationship with the United States must be weighed against the potential conflict of interest created by his relationships with his sisters who are citizens and residents of Nigeria.

Applicant's two sisters in Nigeria have no connection to the Nigerian government or terrorists. See ISCR Case No. 08-10025 (App. Bd. Nov. 3, 2009) (reversing grant of security clearance because of connections to Nigerian government). While the Government has no obligation to present evidence of such a connection, such evidence has important security implications. *Id.* Applicant most recently visited Nigeria in 2022 and did so regularly from 2014 until 2022 and has a five-year visa to travel to Nigeria. Applicant's spouse and child are U.S. citizens; he served honorably on active duty in the Army; and he has worked for more than four years in support of the federal government, which was recognized by his colleagues' letters of support; and he has not been involved with GC since 2016. AG ¶¶ 8(a), 8(b), and 8(c) apply to SOR ¶¶ 2(a) and 2.b and AG ¶ 8(f) applies to SOR ¶ 2(b). Foreign influence security concerns are mitigated.

Guideline C, Foreign Preference

The SOR alleges that Applicant concealed his renewal of his Nigerian passport and concealed his use of his Nigerian passport. (SOR ¶¶ 3.a-3.b).

The security concern under this guideline is set out in AG ¶ 9:

When an individual acts in such a way as to indicate a preference for a Foreign country over the United States, then he or she may provide information or make decisions that are harmful to the interests of the United States. Foreign involvement raises concerns about an individual's judgment, reliability, and trustworthiness when it is in conflict with U.S. national interests or when the individual acts to conceal it. By itself, the fact that a U.S. citizen is also a citizen of another country is not disqualifying without an objective showing of such conflict or attempt at concealment. The same is true for a U.S. citizen's exercise of any right or privilege of foreign citizenship and any action to acquire or obtain recognition of a foreign citizenship.

Applicant's admissions and the admitted exhibits raise the following disqualifying conditions under AG ¶ 10:

(b) failure to report, or fully disclose when required, to an appropriate security official, the possession of a passport or identity card issued by any country other than the United States.

Conditions that could mitigate security concerns under AG ¶ 11 include:

(c) the individual has expressed a willingness to renounce the foreign citizenship that is in conflict with U.S. national security interests; and

(e) the exercise of the entitlements or benefits of foreign citizenship do not present a national security concern.

Applicant has properly renounced his citizenship with Nigeria. His Nigerian passport has expired, and he has no business dealings in Nigeria where he might exercise the entitlements or benefits of Nigerian citizenship. He has a visa under his U.S. passport to travel to Nigeria. His undisclosed exercise of the entitlements or benefits of foreign citizenship do not present a national security concern. AG ¶¶ 11(c) and 11(e) apply.

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 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 consider Applicant's education, character references and testimony, and his honorable military service. I have incorporated my comments under Guidelines E, B, and C in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate personal conduct security concerns.

Applicant submitted Appendix C of the DoD Directive 5520.6, which defines conditional clearances. (AE T.) I have evaluated the information of security concern and find the specific risk to national security cannot be managed with additional security measures to mitigate the issues.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1: Guideline E:	AGAINST APPLICANT
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Subparagraphs 1.a-1.i:	Against Applicant
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Paragraph 2: Guideline B:	FOR APPLICANT
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Subparagraphs 2.a-2.b:	For Applicant
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Paragraph 3: Guideline C:	FOR APPLICANT
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Subparagraphs 3.a-3.b:	For Applicant
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Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

Charles C. Hale
Administrative Judge