



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



In the matter of:)
)
) ISCR Case No. 12-09413
)
)
Applicant for Security Clearance)

Appearances

For Government: Julie R. Mendez, Esq., Department Counsel
For Applicant: *Pro se*

04/092014

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant emigrated from his native Pakistan to the United States in May 1989. He acquired his U.S. citizenship in December 1995. Since July 2011, he has been a contract linguist for the U.S. military in Afghanistan. Foreign influence concerns are heightened because Applicant and his spouse have close family members who are resident citizens of Pakistan. Financial considerations raised by over \$24,000 in delinquent debt are not fully mitigated without proof of any efforts to resolve the debts. Clearance denied.

Statement of the Case

On September 13, 2012, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline F, Financial Considerations, and Guideline B, Foreign Influence, and explaining why it was unable to grant a security clearance to Applicant. The DOD acted under Executive Order 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 within the DOD on September 1, 2006.

Applicant responded to the SOR on November 14, 2012, and he requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. Applicant was deployed in Afghanistan as a contract linguist for the U.S. military at the time. On February 8, 2013, the case was assigned to me to conduct a hearing and determine whether or not it is clearly consistent with the national interest to grant a security clearance to Applicant. The file contained an October 23, 2012 request for administrative notice of pertinent facts concerning the Islamic Republic of Pakistan (Pakistan) from the Government.

On February 8, 2013, I scheduled a hearing for March 1, 2013, based on information from the Government that Applicant was on leave in the United States through that date. On February 15, 2013, Applicant requested that his hearing be continued to late June or early July 2013 due to a mission essential redeployment starting on February 19, 2013. I cancelled the March 1, 2013 hearing to a future date to be determined later. On August 5, 2013, Applicant indicated that he was at a remote location in Afghanistan, and he asked that his hearing be delayed until April 2014. Acting on information from Applicant's employer that he was on leave in the United States until April 1, 2014, on March 11, 2014, I scheduled a hearing for March 28, 2014. On March 13, 2014, I moved the hearing at Applicant's request to March 25, 2014, to accommodate his schedule.

The hearing was held on March 25, 2014. Applicant appeared in person. Department Counsel appeared by video teleconference. Before the introduction of any evidence, at the Government's request, I amended SOR 1.f to correct a typographical error concerning the amount of the alleged debt, *i.e.*, from \$10,00.00 to \$10,000.00. In addition, I agreed to take administrative notice of pertinent facts relating to Pakistan, as set forth in a March 13, 2014, administrative notice request from the Government.¹ The

¹ Copies of the administrative notice request and of proposed Government exhibits were received by me on March 18, 2014. The March 13, 2014 request for administrative notice was submitted in lieu of the October 23, 2012 request for administrative notice, and it was based on the following U.S. government publications: excerpt from the U.S. State Department's *Country Reports on Terrorism 2012, Chapter 5: Terrorist Safe Havens (Update to 7120 Report)*, dated May 30 2013 (I); a Statement for the Record, *Worldwide Threat Assessment of the US Intelligence Community*, by the Director of National Intelligence on March 12, 2013 (II); excerpt from the U.S. State Department's *Country Reports on Terrorism 2012, Chapter 2. Country Reports: South and Central Asia*, dated May 30, 2013 (III); a Statement of the Chairman of the Joint Chiefs of Staff on September 22, 2011 (IV); a U.S. State Department news article, *U.S. Declares Haqqani Network a Terrorist Organization*, dated September 7, 2012 (V); a May 2, 2011 White House Press Briefing by senior administration officials on the killing of Osama bin Laden (VI); a U.S. State Department travel warning on Pakistan, dated February 5, 2014 (VII); the U.S. State Department's travel guidance on Pakistan as of March 13, 2014 (VIII); and the U.S. State Department's *Country Reports on Human Rights Practices for 2013—Pakistan* (IX). Applicant did not object to the facts set out in the administrative notice request or to any of the source documents, although he expressed concerns about the relevance of the terrorism risk in Pakistan to his security worthiness. I agreed to take administrative notice subject to my obligation to make accurate and timely assessments of the political landscape in foreign countries when adjudicating Guideline B cases. See *e.g.*, ISCR Case No. 05-11292 (App. Bd. Apr. 12, 2007).

administrative notice request with source documents was included in the record but was not entered into evidence as an exhibit. The facts administratively noticed are set forth in the Findings of Fact, *infra*. Five Government exhibits (GEs 1-5) and two Applicant exhibits (AEs A-B) were admitted into evidence at the hearing without objection. Applicant testified, as reflected in a transcript (Tr.) received on April 2, 2014.

At Applicant's request, I held the record open for one week for post-hearing evidentiary submissions. No documents were received by the deadline. The record closed on April 1, 2014.

Findings of Fact

The amended SOR alleges under Guideline F (Financial Considerations) that as of September 13, 2012, Applicant owed five collection debts totaling \$13,749 (SOR 1.a-1.e) and \$10,000 on a charged-off auto loan (SOR 1.f). Under Guideline B (Foreign Influence), Applicant's mother (SOR 2.a), one brother (SOR 2.b), three sisters (SOR 2.d), two half-brothers (SOR 2.e), parents-in-law (SOR 2.f), seven sisters-in-law (SOR 2.g) and five brothers-in-law (SOR 2.h) are alleged to be resident citizens of Pakistan while two of Applicant's brothers are Pakistani citizens residing in the Middle East (SOR 2.c).

Applicant provided a detailed response in which he disputed the debt in SOR 1.a. He indicated that the debts in SOR 1.b, 1.d, and 1.e had been satisfied; that he was pursuing coverage of the debt in SOR 1.c by his then medical insurer; and that he had payment arrangements on the auto loan to pay off the debt within 24 months. He admitted the Guideline B allegations, and indicated in mitigation that among the many sacrifices he has made to become a U.S. citizen, he left behind many family members, including his mother. He traveled to Pakistan only three times after immigrating to the United States in May 1989. (Answer.) After considering the administrative notice request, pleadings, exhibits, and transcript, I make the following findings of fact.

Foreign Influence

Applicant is a 50-year-old defense contractor employee, who has been deployed as a linguist for the U.S. military since July 2011. (GE 1; Tr. 65.) He was born and raised in an area of Pakistan, which was under the control of the Pakistani Taliban from 2007 until 2010. (Tr. 65.) In July 1985, he earned his bachelor's degree in English and economics from a university in Pakistan. (GE 1; Tr. 39.) For the next two years, he studied at an accounting institute in Pakistan. He did not complete the program because in 1989, he won the lottery to immigrate to the United States. In May 1989, he emigrated from Pakistan to the United States, leaving behind his mother, three brothers, three sisters, and two half-brothers in Pakistan. His father died in 1983. (GE 3; Tr. 39, 48-52.) Applicant knew no one in the United States. He worked as a convenience store clerk for his first ten years here. (GE 3.)

In September 1994, Applicant returned to Pakistan for the first time since his U.S. immigration. In November 1994, he and his spouse wed in their native village in Pakistan. (Tr. 39-40.) Their marriage had been prearranged for them by their families, and they did not know each other before their wedding. In December 1994, Applicant returned to the United States without his spouse. (GE 3.)

In December 1995, Applicant became a U.S. naturalized citizen, affirming his allegiance solely to the United States. (GE 1; Tr. 40.) He obtained his U.S. passport eight days later, and he destroyed his Pakistani passport. Applicant sponsored his spouse for immigration to the United States, and in June 1996, he traveled to Pakistan on his U.S. passport to accompany his wife on her move to the United States. (Tr. 40.) Applicant stayed with his family in Pakistan for 15 days before returning to the United States with his spouse. (GEs 1, 3.)

Sons were born to Applicant and his spouse in the United States in May 1997 and in December 1998. In October 1999, Applicant and his family traveled to Pakistan. Applicant stayed in Pakistan until December 31, 1999, when he returned to the United States alone. He left his spouse and sons with his mother in Pakistan because he was starting a new job in the financial industry. (Tr. 58-59.) Around February 2000, Applicant bought a convenience store franchise. Applicant's spouse and children rejoined him in the United States, and his spouse helped him operate his store. (GEs 1, 3.)

In May 2003, Applicant's spouse became a naturalized U.S. citizen. (GE 1; Tr. 40.) In December 2003, Applicant and his spouse had their third of four children born to them in the United States. (GEs 1, 3; Tr. 40-41.)

In September 2005, Applicant sold his convenience store. In December 2005, he began working as a linguist for a defense contractor (company X). Almost immediately, he was deployed to Afghanistan where he provided translation services for the U.S. military. In April 2006, Applicant lost his job after he had to be medically evacuated from the country. In June 2006, Applicant was hired by another defense contractor (company Y) to provide linguistic services. Applicant was deployed to Iraq, with an interim Secret security clearance, until December 2006, when he was terminated from his employment for issues related to his security clearance application, *infra*. In December 2006, Applicant and his spouse had their fourth child. (GEs 1, 3; Tr. 41-42.)

In late February 2007, Applicant's spouse and children went to Pakistan while Applicant looked for work in the United States. Applicant's spouse and children stayed with Applicant's mother in her small village in Pakistan. In August 2007, they returned to the United States earlier than originally planned. Applicant's son had unwittingly jeopardized his family's safety and well-being in Pakistan by showing neighborhood children some computer images of Applicant in military clothing and bearing arms. Applicant's tie to the U.S. military became known in the village, and it led to threats against his spouse and children. (Tr. 63-64, 88-89.) The Taliban took control of the district around 2007. (Tr. 89.)

In April 2008, Applicant was rehired by company X to recruit qualified linguists in the United States for translation work in South Asia. In September 2008, he was terminated as an employee for failure to recruit enough linguists, although he continued his efforts to recruit linguists for company X as an independent contractor through April 2011. (GEs 1, 3.)

At the request of company X, Applicant underwent a background investigation in April 2009. (GE 1.) Applicant was interviewed by an Office of Personnel Management (OPM) special agent on April 29, 2009, partially about his contacts to Pakistan. He asserted that his allegiance and preference are solely to the United States, while expressing sympathy for his native Pakistan. Applicant denied any travel to Pakistan since 1999. His mother, four sisters, and two half-brothers were Pakistani resident citizens, but his three brothers were Pakistani citizens residing outside of Pakistan.² Applicant asserted that all of these family members held favorable opinions of the United States. Applicant reported telephone contact with his mother once a month and with his brothers infrequently. When he could afford to do so, he was sending \$200 to \$400 to his mother for her support every five to seven months. Applicant had annual contact with half-brother #1, a retired enlistee from the Pakistani Army, and bi-monthly contact with half-brother #2 who worked in the timber logging industry in Pakistan. Applicant disclosed that his spouse's parents and siblings were all Pakistani resident citizens. He was in contact with his parents-in-law four times a year. His father-in-law was employed by the Pakistani government as a primary school teacher. His mother-in-law did not work outside the home. Applicant denied any ongoing contact with his spouse's four sisters and one brother, and he expressed uncertainty about their occupations in Pakistan.³ Applicant disclosed that he has an older distant cousin, who has worked for the last 30-35 years for Pakistan's government. This cousin was the assistant director for an investigative agency of Pakistan's government. Applicant volunteered that he hosted this cousin once in 2003, when his cousin came to the United States on official business with then Pakistani President General Pervez Musharraf. Applicant denied any contact with his cousin since then. Applicant also detailed his friendships with several Pakistani natives, some of whom retain Pakistani citizenship. Three of these friends know of his work as a translator for the U.S. government, but his family members have been led to believe that he works in the information technology sector in the United States. (GE 3.)

Due to extremist violence, Applicant's family members in Pakistan fled their native village for a refugee camp in 2009. Around 2010, the Pakistani Army regained control over the district from the Taliban, and Applicant's family members returned to their village. (Tr. 89.) In January or February 2011, Applicant proposed that his spouse and children return temporarily to Pakistan, where they could live comfortably on

² Applicant's brother #2 was living in Southeast Asia at the time. He moved back to his native village in Pakistan before May 2011. (GEs 1-3.)

³ Of the seven sisters-in-law and five brothers-in-law alleged in the SOR, three of the sisters-in-law and four of the brothers-in-law are related to Applicant through marriage to a sibling of Applicant's or Applicant's spouse. Applicant testified that his spouse has four sisters and one brother. (Tr. 54.)

considerably less money. One of Applicant's brothers in Pakistan advised Applicant against sending his spouse and children to Pakistan because of threats to their lives.⁴ (Tr. 88-89.) Applicant's spouse and children stayed in the United States. (Tr. 22.)

On May 9, 2011, Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP), which he updated on May 17, 2011, to work as a linguist with his current employer. Applicant disclosed that close family members (mother, three brothers, two half-brothers, three sisters, and his parents-in-law) were all resident citizens of his native Pakistan. (GE 1.)

On May 17, 2011, Applicant reported his foreign travel and his foreign relatives and associates during an interview for the DOD. Applicant indicated that the youngest of his brothers (brother #3) was living in the Middle East, but that his and his spouse's parents and their other siblings were Pakistani resident citizens. Applicant reported contacts with his mother four times a month, with one of his sisters (sister #2) and her husband once to twice a month, and with his parents-in-law once to twice a month. Once or twice yearly, he had telephone contact with his other siblings, their spouses, and his two half-brothers. He reported no contact with his spouse's four sisters, her brother, or her two brothers-in-law in Pakistan.⁵ Applicant also disclosed his association with eight friends, three of whom had Turkish citizenship and one had Pakistani citizenship. Of the four with U.S. citizenship, one friend was working as a linguist in Afghanistan. (GE 2.)

Applicant has been deployed to Afghanistan for his employer since July 2011. Unofficial calls to Pakistan from the deployment zone were prohibited, and he honored the ban. (Tr. 48.) While on leave in the United States for three weeks in early 2012, for four weeks in early 2013, and for four weeks in March 2014, Applicant contacted his mother in Pakistan via Skype around once a month. (Tr. 48.) An elderly homemaker, she currently resides with Applicant's brother #2. (Tr. 51-52.) With his spouse's help, Applicant has continued to send his mother around \$200 a month to help pay for her medications and other needs. (GEs 2, 3; Tr. 49.)

Applicant contacts his siblings once or twice a year when he is not deployed. (GE 2; Tr. 51-52.) Applicant's mother, his brother #2 and his spouse, and his half-brothers

⁴ Applicant testified about more recent threats, as follows:

Actually, two years ago my brother, when I was here, like in 2011, I still had—I didn't get this job, so I still had like financial problems and stuff. I told my wife it's going to be easier if you and the kids go there and I'll find a job because it's very expensive to take care of everything. So she spoke with her father and mother and then my brother called me and he said you and your family should not come to Pakistan, and if you want to kill them, then send them, and if want to—if you love them, keep them there. It doesn't matter if you cannot afford to, stay on the street or anything, but do not send them here because we have—they had—there was threats sent to them. But my own brothers, they were not harassed because they are—they are here but they got the messages from them that if we see them this time, then I'm going to be going back. (Tr. 88-89.)

⁵ Two of his spouse's sisters married after May 2011. (Tr. 54.)

and their spouses, still live on the family's land in their small village, which has been under the control of the Pakistani Army since 2010. (Tr. 51-52, 65-66.) Brother #2 is a 47-year-old farmer. Applicant's half-brother #1 served at the enlisted rank in the Pakistani Army before he retired in the mid-1970s. Half-brother #2 is self-employed in the timber industry in Pakistan. (GE 2; Tr. 52.) Applicant's brothers' spouses do not work outside the home. (GE 2.)

Applicant's sister #1 is a homemaker. Her spouse was a driver in the Pakistani Army before he retired in the 1980s. (GE 2; Tr. 58.) Sisters #2 and #3 are homemakers, who reside in larger cities in Pakistan with their spouses. (GE 2; Tr. 53.) Applicant was in contact with sister #2 twice a month as of May 2011, but their contact has diminished in recent years because of Applicant's deployment. Sister #2's spouse is a contractor involved in the retail of building materials. (Tr. 61.) Sister #2 and her spouse live near the cousin who worked for an investigative agency of Pakistan's government until four years ago.⁶ Sister #2 and her spouse have friendly relations with this cousin. (Tr. 61.)

Applicant's brothers #1 and #3 currently reside in a city in the Middle East. (Tr. 49.) Brother #1 works in his city's sanitation department while brother #3 is a banker. (Tr. 50.) Applicant has had no in-person contact with his brothers in the past 15 years, although he still has affection for them. Applicant plans to spend the last few days of his leave with brothers #1 and #3 in the Middle East in late March 2014 before he reports for duty in Afghanistan in early April 2014. (Tr. 50, 65.)

Applicant and his spouse's families are from the same village in Pakistan, and his spouse's parents still live there. (GE 2; Tr. 38.) Applicant's spouse contacts her parents in Pakistan via Skype "maybe twice, three times a month," and sometimes "a lot." Applicant last spoke with his parents-in-law on March 24, 2014. (Tr. 66.) Applicant's father-in-law has been a primary school teacher under the employment of the Pakistani government for over 30 years. Applicant's mother-in-law does not work outside of the home. (GE 2; Tr. 57.) As of April 2009, Applicant had contact with them four times yearly. (GE 3.) As of May 2011, he had contact with them twice monthly. (GE 2.) His contact with them has since been limited because of his deployment. (Tr. 57.)

Applicant has no contact with his spouse's four sisters, their spouses, or her brother. He describes his spouse's contact with her sisters as "not that much." (Tr. 54) Applicant's sisters-in-law do not work outside the home. Applicant's spouse's older sister is married to a storekeeper while her sister #2's spouse owns a factory in Pakistan. To Applicant's knowledge, none of his spouse's family members have any connection to, or affiliation with, Pakistan's government. (Tr. 57.)

Applicant and his spouse do not have any plans to travel to Pakistan in the near future. If Applicant's spouse and children do travel to Pakistan in the future, they will go to the city where Applicant's sister #2 lives. Their native village is too dangerous for

⁶ Applicant indicated in April 2009 that his mother and cousin's mother were cousins, and that sister #2's spouse has his own familial tie to this cousin. (GE 3.)

them, in light of the ongoing extremism in the region and the threats made against them.⁷ (Tr. 71.)

U.S. military personnel familiar with Applicant's performance as a multilingual translator in Afghanistan attest to Applicant's dedication to the U.S. military's mission and to improving the lives of the Afghan people. Applicant's military supervisor from March 2013 until July 2013 indicates that Applicant provided "an enormous amount of assistance." Applicant interpreted 75 human intelligence source meetings, 150 local Afghan police debriefings, and "countless other interactions with local nationals" in the Afghan district. On several occasions, the unit relied heavily on Applicant to translate "time-sensitive information that served as an early warning against imminent hostilities toward US and Afghan forces." (AE B.) Applicant distinguished himself in his next assignment as well. Applicant provided "unparalleled" performance as a linguist and voluntary cultural awareness training to the team and other U.S. military personnel, which was instrumental in providing insight and understanding of the Afghan people. (AE A.)

Financial

Applicant purchased a convenience store franchise in February 2000 with \$20,000 in personal savings and \$25,000 borrowed from two friends. Applicant paid off this personal loan by 2003. In November 2002, Applicant's spouse bought their home in the United States, taking on a mortgage of \$332,000. Her credit was better than his, so the loan was only in her name. In 2005, she refinanced her mortgage through a new loan around \$379,000, which had a lower interest rate than her previous mortgage. (GE 3.)

In September 2004, Applicant had a medical emergency that required him to take time off from the day-to-day operation of his store. He promoted a trusted store clerk to general manager. Around February 2005, Applicant realized that this employee had misappropriated almost \$50,000 from the store when the state lottery prohibited further lottery ticket sales. Applicant owed the state lottery \$19,903 in ticket sale funds and \$23,175 to the franchise headquarters for invoiced store goods. Applicant maxed out his personal credit cards and depleted his savings to cover his business debts. Applicant sold the store in September 2005 because he could no longer keep the business afloat. The sales proceeds went to pay business debts. Applicant was unemployed from September 2005 to December 2005. He relied heavily on consumer credit to cover expenses, and some bills went unpaid. (GE 3.)

From December 2005 to April 2006, Applicant earned about \$36,000 in gross income for his linguist services in Afghanistan under the employment of company X. (Tr. 71.) In April 2006, Applicant was medically evacuated to Europe, where he received medical care for seven days in a military health facility. (Tr. 34.) He was billed around

⁷ Applicant testified that with the area now under the control of Pakistan's Army, "it's kind of safe, it's a good area now." (Tr. 66.) However, he also admitted that his and his spouse's family village is in a "troubled area," and that it is "very dangerous" for him and his children to go there. (Tr. 71.)

\$7,169 by the Defense Finance and Accounting Service (DFAS) for the medical care (SOR 1.c), which both company X and his medical insurer refused to cover. Around 2010, Applicant learned that he was being held liable for the debt. (Tr. 35.) Applicant did not pay the bill because he believed it should have been covered by company X or employer-provided medical insurance. (Tr. 35-36.) In April 2011, a delinquent balance of \$7,232 was placed for collection. (GEs 4, 5.)

Between April 2006 and June 2006, Applicant supported himself and his family on savings. Applicant was hired by company Y for linguist duties in Iraq in June 2006. Required to apply for a DOD security clearance, Applicant did not have all the financial information needed to complete his SF 86.⁸ Acting on the advice of a security manager, Applicant denied any financial issues. By the time he updated his SF 86, the “hardcopy” of his SF 86 had been submitted. With no guidance from security personnel about how he could correct the information, Applicant did nothing. In early December 2006, he was sent home from Iraq and terminated from his employment with company Y because of the discrepancy between his credit record and his denial of any delinquencies on his SF 86.⁹ (GE 3.) Applicant’s income was around \$58,000 while he was in Iraq. (Tr. 72.)

Applicant was unemployed from December 2006 until October 2007. He supported himself and his family on savings and unemployment compensation. (GE 3.) From October 2007 to April 2008, Applicant owned and operated a small convenience store. The business proved not to be profitable. He sold the store to its previous owner, but the business venture set him back \$18,000. (Tr. 73.) As a recruiter for company X from April through August 2008, Applicant was paid \$2,600 in gross wages per month. (Tr. 74.) After he was terminated for not bringing in enough translators, Applicant had little success as a self-employed recruiter. By late April 2009, he had recruited only one linguist for company X and had earned only \$3,500. (GE 3.)

Living largely on his unemployment compensation of \$560 per week and his spouse’s income of \$600 per week from babysitting, Applicant’s and his spouse’s household expenses exceeded their income by about \$491 every month as of April 2009. At times, Applicant was forced to choose which creditors would be paid, and he relied on consumer credit for purchases. His spouse had also sold her jewelry for about \$18,000 to pay their bills. (Tr. 80.) When he was interviewed by the OPM agent in April 2009, Applicant indicated that two credit card lenders had filed for court judgments against him to recover balances around \$10,000 and \$5,000. The debts had been incurred for his convenience store business. He indicated that he had arranged to make payments on these debts as well as on a \$3,000 credit card debt, but he was not

⁸ Applicant is the sole source of the information about the circumstances surrounding his completion of the SF 86 and his employment termination. The SF 86, which he apparently completed in late 2005, was not available for review.

⁹ The SOR does not allege that Applicant deliberately falsified his security clearance application. The information is mentioned only to explain his employment termination, which had a direct impact on his finances.

making the payments because of his lack of income.¹⁰ Applicant admitted that he also owed a \$2,500 retail charge account balance in collection (SOR 1.b), about \$3,000 to a local hospital for medical care in 2006 (not alleged in SOR), and a wireless phone debt (not alleged in SOR). Applicant expressed his intent to satisfy his delinquencies once he had a decent income. Applicant was asked about any liens on his home, which was owned by his spouse. He denied any knowledge of any liens, and explained that with a refinancing around 2005, the mortgage was now approximately \$379,000. Applicant related that he was up-to-date on two vehicles financed solely in his name. (GE 3.) Applicant had taken out two automobile loans, of \$22,201 in December 2008 (SOR 1.f) and of \$6,025 in January 2009, with respective monthly repayments of \$559 and \$379. (GEs 4, 5.)

Persistent financial problems strained Applicant's marriage. He and his spouse argued about his failure to secure full-time work, and the police were called to his residence in October 2008 and in January 2009. (GE 3.) In or before 2009, his spouse's mortgage lender filed to foreclose on their home.¹¹ Applicant and his spouse unsuccessfully challenged the foreclosure. (Tr. 81.) Around July 2010, they moved into an apartment. (GE 1.) Applicant's spouse continues to blame him for their financial problems. (Tr. 86.)

In May 2011, Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) for a linguist position with his current employer. Applicant responded "Yes" to whether he had any bills or debts turned over to a collection agency in the last seven years and whether he had any accounts or credit card suspended, charged off, or cancelled for failing to pay as agreed in the last seven years. He listed charged-off credit card debts of \$2,839 and \$10,000 (not alleged in SOR); auto loans charged off in May 2010 and in October 2010 (SOR 1.f) for nonpayment;¹² credit card collection debts of \$708, \$179, \$347, \$3,775 (SOR 1.b) and \$265; medical collection debt of \$3,088 (not alleged); a \$445 collection debt for a returned check (SOR 1.e); and wireless phone collection debt of \$580.¹³ (GE 1.) Applicant was paid a per diem by his prospective employer while he completed the paperwork. (Tr. 75.)

Applicant started working for his current employer in June 2011 at a gross annual salary of \$50,000. (Tr. 75.) On his deployment in July 2011, his income increased to \$120,000 annually. (Tr. 76.)

¹⁰ The three credit card debts (\$10,000, \$5,000, and \$3,000) were not alleged in the SOR.

¹¹ Applicant testified that foreclosure was initiated in 2008. (Tr. 79.) Applicant did not mention any problems with the mortgage during his April 2009 interview (GE 3), and he listed the home as his address until July 2010. (GE 1.)

¹² The \$22,000 car loan taken out in December 2008 had not been paid since December 2009. Date of last activity on the other car loan was February 2010. (GE 4.)

¹³ Most of the credit card debts are not listed in the SOR. The telephone services provider owed the \$580 is a competitor to the wireless phone provider that placed a \$1,097 past-due balance for collection in August 2012. (GE 5.)

As of August 2012, Equifax Information Services was reporting that a satellite television debt of \$1,311 from September 2010 had been in collection since January 2012 (SOR 1.a). A previously undisclosed credit card account, opened in January 2010, was reported as in collection since April 2011 with a balance of \$438 (SOR 1.d). Applicant also owed \$4,313 on the retail charge account in collection (SOR 1.b), \$7,232 to DFAS (SOR 1.c), \$445 for the returned check charges in collection (SOR 1.e), and \$10,000 on the auto loan taken out in December 2008 (SOR 1.f). His other auto loan was reported as a charge-off debt with a zero balance. (GE 4.)

On September 13, 2012, the DOD issued an SOR to Applicant, in part because of six delinquent accounts on his credit record. On November 14, 2012, Applicant addressed the financial concerns raised by the DOD. He disputed the satellite television debt, claiming that he was charged for equipment which he returned. He asserted that he had satisfied the debts in SOR 1.b, 1.d, and 1.e; that he was working with a medical insurer toward resolving the DFAS debt (SOR 1.c); and that he had arranged to make monthly payments on his car loan (SOR 1.f). He attributed his delinquencies to financial hardship caused by lengthy unemployment, and he indicated that he was working to pay off his debts by the end of 2013. Due to his remote location, he planned to bring payment receipts to his security clearance hearing. (Answer.)

As of November 2012, Equifax was reporting no progress toward resolving the delinquent debts on his credit record. Applicant reportedly owed past-due balances of \$4,311 (SOR 1.b), \$7,232 (SOR 1.c), \$438 (SOR 1.d), \$445 (SOR 1.e), and \$10,813 (SOR 1.f). In addition, a \$1,295 wireless phone debt from May 2010 had been placed for collection in the amount of \$1,097 in August 2012 (not alleged in SOR). The satellite television debt (SOR 1.a) was no longer on his credit record. (GE 5.)

In September 2013, Applicant's income decreased to \$97,000 annually because the U.S. military was reimbursing his employer at a lower rate than under its previous contract. (Tr. 75, 77.) By his hearing in March 2014, Applicant had not made any payments to DFAS, even though both his former employer and insurance provider had denied coverage of his medical treatment in 2006. (Tr. 37.) Applicant initially testified that he keeps calling both the insurer and company X about paying the debt (Tr. 35-36), although he later admitted that he has not spoken with the insurer since 2011 or with his former employer since 2012. (Tr. 46.) He indicated that he would call the creditor and attempt to settle the debt. (Tr. 47.) When he answered the SOR, Applicant disputed the debt in SOR 1.a and asserted that he had paid the debts in SOR 1.b, 1.d, and 1.e. At his hearing, he no longer disputed the unresolved satellite television debt in SOR 1.a. (Tr. 45-46.) Applicant testified that he settled the debt in SOR 1.b for about \$2,600 "like almost a year ago." (Tr. 36-37, 85.) Applicant presented no proof of payment by the close of the evidentiary record. Applicant expressed his intent to pay the debts in SOR 1.d and 1.e, which he previously claimed had been paid. Applicant had no repayment arrangements in place for the car loan debt in SOR 1.f. (Tr. 36.) Applicant attributed his failure to address his delinquencies in the SOR to giving priority to his family. Applicant moved his spouse and children to their present apartment in a town with better schools, and he bought his spouse a vehicle because his car had been repossessed. (Tr. 78.) In

addition, he reportedly paid a \$7,000 credit card debt not alleged in the SOR (Tr. 77), although he provided no evidence of any such payment. He cited his deployment as another reason for his failure to address the debts in the SOR. (Tr. 85.) As of late March 2014, Applicant had around \$10,000 in savings deposits. He denied that he had any other known delinquencies. (Tr. 47.)

Administrative Notice

After reviewing U.S. government publications, I take administrative notice of the following facts pertinent to Pakistan:

Pakistan

Pakistan is a parliamentary federal republic in South Asia, with a population of more than 180 million. Pakistan held elections in May 2013, and the government is led by the Pakistan Muslim League-Nawaz (PLM-N). Pakistan remains an important partner of the United States in counterterrorism efforts against al-Qa'ida and in supporting an Afghan peace process.

At the same time, extensive terrorist networks operate from safe havens within Pakistan's Federally Administered Tribal Areas (FATA), the Khyber Pakhtunkhwa Province, and the Balochistan Province, which borders Iran and Afghanistan. Al-Qa'ida, the Haqqani Network, the Afghan Taliban, Lashkar-e-Tayyiba (LT), and other groups exploited the inability of Pakistan's security agencies to fully control portions of his own territory to find refuge and plan operations. Al-Qa'ida leader Osama bin Laden, a sworn enemy of the United States and responsible for killing thousands of innocent civilians in high-profile attacks (e.g., September 11, 2001, the 1998 East Africa embassy bombing, and the USS Cole), was in hiding within a large al-Qa'ida compound in Pakistan at the time of his death by U.S. Special Forces on May 1, 2011. The Afghan Taliban and Haqqani Network continued to conduct operations against United States and Coalition Forces in Afghanistan from Pakistan in 2012. Pakistan officials made public statements against terrorism and violent extremism, and undertook operations against terrorist groups that carried out attacks within Pakistan, such as the Tehrik-e Taliban Pakistan (TTP or Pakistani Taliban). However, Pakistan did not take significant action against some other violent extremist groups, such as Lashkar-e-Tayyiba, which continued to operate and raise funds openly in Pakistan through its political and charitable wing, Jamaat ud Dawa. The U.S. intelligence community expects that LT will continue to be the most multi-faceted and problematic of the Pakistani militant groups, in part because of its long-term potential to evolve into a permanent and even HAMAS/Hizballah-like presence in the country. In addition, the Haqqani Network is considered in many ways a strategic arm of Pakistan's Inter-Services Intelligence Agency. It has long enjoyed the support and protection of the Pakistani government. On September 7, 2012, the United States formally declared the Haqqani Network a Foreign Terrorist Organization.

Despite the significant consolidation of Pakistan's democratic institutions during the May 2013 election, the country continued to have a poor human rights record. The

military and intelligence services nominally reported to civilian authorities but at times operated without effective civilian oversight. Security forces sometimes committed abuses. The most serious human rights problems were extrajudicial and targeted killings, sectarian violence, disappearances, and torture. Poor prison conditions, arbitrary detention, lengthy pretrial detention, a weak criminal justice system, infringement on citizens' privacy and assembly rights, harassment of journalists, censorship, widespread corruption within the government and police, discrimination against religious minorities, human trafficking, and abuse of women and children were persistent problems. Due to a lack of government accountability, human rights abuses often went unpunished. Violence, abuse, and social and religious intolerance by militant organizations and other nongovernmental actors contributed to a culture of lawlessness in the provinces of Balochistan, Sindh, Khyber Pakhtunkhwa, and the FATA.

As of February 2014, the U.S. State Department was continuing to warn U.S. citizens to defer all nonessential travel to Pakistan due to the potential danger posed by several foreign and indigenous terrorist groups throughout the country, especially in the western border regions. Terrorist groups have demonstrated a willingness and capability to attack targets where U.S. citizens or other westerners are known to congregate or visit, such as shopping areas, markets, hotels, clubs and restaurants, places of worship, schools, train stations, minority neighborhoods, and outdoor recreation events. U.S. citizens have been kidnapped for ransom or for personal reasons. A U.S. citizen and nine other foreign nationals were murdered by terrorists while mountain climbing in the Gilgit-Baltistan region in June 2013. Suicide bombing attacks and political violence occur on a regular basis. On September 22, 2013, a suicide bomb attack outside of a Peshawar church killed 119 people. The U.S. government currently allows only mission-critical travel within the FATA and Khyber Pakhtunkhwa Province by U.S. officials.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B—Foreign Influence

The security concern relating to foreign influence is articulated in AG ¶ 6:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

Applicant’s mother, one of his three brothers, his two half-brothers, his three sisters, his spouse’s parents, his spouse’s five siblings, and the spouses of Applicant’s and his spouse’s siblings, are resident citizens of Pakistan. Two of Applicant’s brothers are Pakistani citizens living and working in the Middle East. The DOHA Appeal Board

has held that if an applicant has a close relationship with even one relative living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See *generally* ISCR Case No. 03-02382 (App. Bd. Feb. 15, 2006). Although Applicant has not seen his mother since his last visit to Pakistan in 1999, he has ties of affection and obligation to her. Before his deployment starting in July 2011, he contacted her by telephone four times a month. His recent contact has been limited to a few times yearly because of work constraints and not because of diminished concern for her. During his deployment, he has continued to send her around \$200 a month for her support. Applicant's spouse and children stayed with his mother when they were in Pakistan from October 1999 to February 2000, and again from February 2007 to August 2007. For the most part, Applicant has been in contact with his siblings once or twice a year. The decline in his contact with sister #2, from twice monthly in 2009 to once or twice yearly presently, is attributable to Applicant's deployment and not to any discord between them. With respect to his two brothers living outside of Pakistan, Applicant arranged to visit them en route to Afghanistan in late March 2014. He admits he has affection for them, despite their limited contact over the years.

As of April 2009, Applicant was in contact with his parents-in-law once or twice a month. As with his family, recent contacts with his in-laws have been limited because of his deployment. He spoke to his parents-in-law via Skype as recently as March 24, 2014. Applicant's spouse has ongoing contact with her parents by Skype two to three times a month. The DOHA Appeal Board has repeatedly held that in-laws represent a class of persons contemplated by the Directive as presenting a potential foreign influence risk. As a matter of common sense and human experience, there is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse. See, *e.g.*, ISCR Case No. 08-10099 (App. Bd. Jan. 28, 2011); ISCR Case No. 03-26176 at 5 (App. Bd. Oct. 14, 2005). Applicant denied any contacts with his spouse's siblings or her siblings' spouses. The record is largely silent as to the extent of Applicant's spouse's bonds to, and contacts with, her siblings in Pakistan, other than she contacts her sisters "not so much." (Tr. 54.) Even so, she has regular contact with her parents in Pakistan.

Foreign contacts or connections present a security concern if there is a heightened risk of foreign influence. Three disqualifying conditions are potentially applicable under AG ¶ 7:

- (a) contact 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 sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information; and

(d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

The “heightened risk” denotes a risk greater than the normal risk inherent in having a 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. Even friendly nations may have interests that are not completely aligned with the United States. As noted by the DOHA Appeal Board, “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). 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 (App. Bd. Dec. 7, 2006).

Applicant’s contacts with his family members in Pakistan are of the type and frequency that one would expect of any immigrant who left his entire family behind when he emigrated. Applicant’s father-in-law’s occupation as a longtime primary school teacher heightens the risk only in that he is paid by the Pakistani government for his work. Applicant’s half-brother #1 served in Pakistan’s Army, but he retired more than 30 years ago. Applicant’s brother-in-law (spouse of sister #2) served as a driver in the Pakistani Army before he retired in the 1980s. There is no evidence that either of these relatives has any recent or ongoing contact or relationship with Pakistan’s military. Applicant’s cousin worked for the Pakistani government for over 30 years. He was an assistant director of a Pakistan investigative agency until his retirement only four years ago. Applicant hosted this cousin for one night when the latter was in the United States on official business with then Pakistani President General Musharraf. While Applicant has had no contact with this cousin since then, concerns of foreign influence could arise through Applicant’s sister #2. Applicant presumably has a closer tie with this sister than his other siblings in that they had twice monthly contact before he was deployed. Sister #2 and her spouse have friendly relations with this cousin, who lives in their neighborhood. However, the Government did not allege any risk of foreign influence because of the family’s relatively recent connection to the Pakistani investigative agency, so it cannot provide a basis for disqualification.¹⁴

¹⁴ In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

(a) to assess an applicant’s credibility; (b) to evaluate an applicant’s evidence of

Two of Applicant's three brothers are living and working in the Middle East, in a country that does not present an undue risk to U.S. interests. However, a heightened risk is established under AG ¶¶ 7(a), 7(b), and 7(d) because several of Applicant's and his spouse's close relatives, including his mother and her parents, continue to reside in an area of Pakistan that was in Taliban control as recently as 2010. Applicant testified that his spouse and children had to return to the United States from Pakistan prematurely in August 2007 when they faced threats because of his service to the U.S. military. Plans to send his spouse and children to his mother in Pakistan in early 2011 were abandoned when Applicant's brother advised him that if he loved his spouse and children, he should keep them in the United States. (Tr. 88.) Applicant's un rebutted testimony is that his brothers in Pakistan were not harassed. (Tr. 89.) Even so, travel in that region of Pakistan is currently restricted for U.S. citizens due to the ongoing threat of terrorist attacks by foreign and indigenous extremist groups. The ongoing risk of terrorist activity, not only in Applicant's native valley, but also in the cities where sisters #2 and #3 reside, precludes mitigation under AG ¶ 8(a):

(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 U.S.

Applicant credibly professes allegiance to the United States, as bolstered by his service as a linguist for the U.S. military in dangerous locations from December 2005 to April 2006, from late June 2006 to early December 2006, and now since July 2011. AG ¶ 8(b) provides for possible mitigation where there is minimal foreign loyalty or where there are deep and longstanding ties to the United States:

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.

It is difficult for Applicant to satisfy the first prong of AG ¶ 8(b). Applicant's family ties are understandable, but they are not "so minimal." He sent his spouse and children to stay with his mother in Pakistan so that he could devote himself to a new job in 1999 and to finding employment in 2007. He intended to send them again in 2011 until his brother warned him against doing so. Applicant provides for his mother financially,

extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

(citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)).

despite his poor credit due to unpaid delinquencies. When Applicant is in the United States, he has regular contact with his mother. He had twice monthly contact with sister #2 before his 2011 deployment to Afghanistan. Applicant may have had limited contact with his other siblings over the years, but he has not rebutted the presumption that his contacts with his family members in Pakistan are not casual. AG ¶ 8(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,” cannot fully apply.

Applicant’s and his spouse’s ties to her parents also cannot reasonably be characterized as minimal. Despite the discord in his marital relationship that persists because of his financial problems (Tr. 86), Applicant spoke to his parents-in-law as recently as March 24, 2014. The minimal sense of loyalty or obligation addressed in AG ¶ 8(b), and the casual relationship necessary for mitigation under AG ¶ 8(c), apply, if at all, only to his spouse’s siblings and their spouses, with whom Applicant has no contact.

AG ¶ 8(b) is implicated in that Applicant has developed security significant ties to the United States since his immigration in May 1989, most notably his U.S. citizenship and his service as a linguist to the U.S. military. When Applicant won the visa lottery, he left his entire family and his academic studies in Pakistan for a new life in the United States. He knew no one here. He traveled to Pakistan in September 1994 to marry someone from his village whom he did not know. After he became a naturalized U.S. citizen in December 1995, he sponsored her U.S. immigration. In June 1996, Applicant went to Pakistan on his U.S. passport to accompany his wife to the United States. In 2000, he bought a convenience store franchise in the United States. Over the next 4.5 years or so, Applicant and his spouse successfully operated his business until a medical condition forced him to relinquish the day-to-day operations to someone he thought he could trust. His home was solely in his spouse’s name because of his poor credit. Nonetheless, his entrepreneurial efforts reflect firm roots in the United States.

Applicant deployed to Afghanistan for the first time around December 2005. He lost his job in April 2006, after he had to be medically evacuated. Only a few months later, he was in Iraq for another employer, serving as a translator for the U.S. military. In December 2006, he was terminated from this employment because of unreported financial issues. From April 2008 to September 2008, he worked to recruit linguists for deployment to South Asia for his previous employer. Since July 2011, he has distinguished himself as a linguist in Afghanistan for his current defense contractor employer. While deployed to a war zone, Applicant complied with requirements that he not contact any family members in Pakistan.

The DOHA Appeal Board has recognized that individuals who serve in combat zones should be evaluated in the context of the high-risk environment in which they work:

As a general rule, an applicant’s prior history of complying with security procedures and regulations is considered to be of relatively low probative

value for purposes of refuting, mitigating, or extenuating the security concerns raised by that applicant's more immediate disqualifying conduct or circumstances. However, the Board has recognized an exception to that general rule in Guideline B cases, where the applicant has established by credible, independent evidence that his compliance with security procedures and regulations occurred in the context of high-risk circumstances in which the applicant has made a significant contribution to the national security. The presence of such circumstances can give credibility to an applicant's assertion that he can be relied on to recognize, resist, and report a foreign power's attempts at coercion or exploitation.

See ISCR Case No. 06-25928 at 4 (App. Bd. Apr. 9, 2008) (internal citations omitted). Applicant apparently held an interim Secret clearance while deployed to Iraq in 2006, although he presented no independent evidence about his linguistic contributions at that time. He has not held a security clearance during his deployment for his current employer since July 2011. Yet, military team leaders confirm Applicant's dedication to the U.S. military's mission and to improving the lives of the Afghan people in 2013. Applicant provided "an enormous amount of assistance," interpreting 75 human intelligence source meetings, 150 local Afghan police debriefings, and "countless other interactions with local nationals" in the Afghan district. On several occasions, the unit relied heavily on Applicant to translate "time-sensitive information that served as an early warning against imminent hostilities toward US and Afghan forces." Applicant's record of reliability under stressful conditions tends to minimize the risk of a conflict of interest identified in AG ¶ 7(b). Applicant is not likely to be motivated by any desire to help the Pakistani government or any extremist elements in Pakistan.

However, Applicant has not fully mitigated the unacceptable risk that he could find himself in the position of having to make an untenable choice between the interests of a close family member and the United States. Applicant's tie to the U.S. military is known in his native village, and it has led to threats against him and his spouse and children. Threats were taken seriously enough to require his spouse and children's premature return to the United States in August 2007, and almost four years later, for Applicant's brother to advise that they not come to Pakistan. If Applicant's clearance is granted, there is a theoretical increase in the risk to his family members in Pakistan, even if Applicant's spouse and children do not travel to Pakistan or avoid the village, if they travel to Pakistan. While Pakistan's Army has taken control from the Taliban of the valley where several members of Applicant and his spouse's families reside, extremist groups continue to attack civilian targets in the region. The Pakistani government does not fully comply with the rule of law or protect civil liberties in many instances. It has allowed some terrorist groups, such as the Lashkar-e-Tayyiba, to operate with impunity. Under the present circumstances, the risk of undue foreign influence is not fully mitigated.

Guideline F, Financial Considerations

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

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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

Guideline F addresses several conditions that could raise security concerns. The SOR alleges \$23,739 in past-due debt on six accounts, which are listed on Applicant's August 2012 credit report. Applicant is no longer disputing the \$1,311 satellite television collection balance from September 2010 (SOR 1.a). While that debt no longer appears on Applicant's credit record as reported by Equifax (GE 5), a \$1,295 cell phone debt from May 2010 was on his record as a collection debt placed in January 2012. Nine of the 12 delinquencies on Applicant's May 2011 e-QIP were not included in the SOR, presumably because Equifax was not reporting those nine debts on Applicant's credit record as of 2012.¹⁵ The nine debts total at least \$18,006 and include a charged-off car loan with a zero balance, charged-off credit card debts of \$2,839 and \$10,000, a \$3,088 medical debt, and five collection debts totaling \$2,079. Applicant candidly testified that his spouse lost their home to foreclosure. Debts not alleged in the SOR cannot provide a basis for security disqualification. See footnote 14, *supra*. Even so, the delinquent accounts in SOR 1.a-1.f are sufficient to establish disqualifying conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations."

Mitigating condition AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under circumstances that it is unlikely to recur and does not cast doubt on the individual's current, reliability, or good judgment," cannot reasonably apply to outstanding delinquencies. Applicant attributes his DFAS debt to a medical emergency and the other debts to protracted unemployment. Unexpected medical costs and loss of employment are unforeseen circumstances that could implicate AG ¶ 20(b):

(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, or a death, divorce or separation), and the individual acted responsibly under the circumstances.

¹⁵ The DOHA Appeal Board has held that adverse information from a credit report can normally meet the substantial evidence standard, which under the Directive is sufficient to shift the burden to the applicant to establish either that he or she is not responsible for the debt or that matters in mitigation apply. See ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010). Even so, Applicant's financial situation may not be accurately reflected in the Equifax credit reports (GEs 4, 5). Equifax and the other credit bureaus collect information from a variety of sources. When accounts are transferred, reassigned, or sold, it may be difficult to determine the identity of the original creditor. Some accounts may be listed more than once, as for example, held by the initial lender and also by a subsequent assignee, making an individual's credit status look worse than it actually is. Credit information may not always be updated to reflect payment. In this case, debts may not have been reported to Equifax.

The available credit reports from Equifax shed little light on the DFAS debt. Account information shows it was opened in April 2011, although the date may be when the account was referred for collection. There is no evidence disputing Applicant's testimony that the debt was for medical services. The retail charge account debt in SOR 1.b became delinquent around mid-2006, when Applicant was in Iraq. It is unclear whether he or his spouse was handling payments when he was deployed. The account was placed for collection in April 2007, when his spouse was in Pakistan. The debt in SOR 1.e was for an insufficient funds check around March 2008, when his convenience store business was struggling. From a financial standpoint, one could question why he bought a convenience store in October 2007 that set him back \$18,000 when he had unpaid debts, but he had some success with a convenience store in the past until an employee began stealing from him. AG ¶ 20(b) has some applicability to the debts in SOR 1.b, 1.c, and 1.e. However, Applicant raised doubts about his financial judgment in other aspects. Between December 2008 and January 2009, he took on two auto loans with \$938 in monthly car payments, when the family was already struggling to meet their expenses. The account in SOR 1.d was opened in January 2010, when he was unemployed, and placed for collection in April 2011 after no payment since April 2010. Applicant stopped paying on the satellite television debt in SOR 1.a and the wireless phone debt (not alleged) in 2010. Unemployment may have been a factor in these more recent delinquencies, but he also has not acted responsibly toward his creditors once he had a stable income.

Applicant was paid \$120,000 annually for his linguist services from July 2011 to September 2013. Since then, he has earned \$97,000 annually. Yet, he made no payments on the debts in the SOR, with the possible exception of SOR 1.b. About that debt, Applicant claims to have settled it for \$2,600, but he presented no proof of any payments. Applicant's deployment to remote locations does not completely excuse his inaction on his debts. He was on leave in the United States for four weeks each from January to February 2013 and from February to March 2014. He has known since 2010 about the DFAS debt, and he reported the debts in SOR 1.b, 1.e, and 1.f on his May 2011 e-QIP. He knew as of November 2012 that the DOD was concerned about the debts, including the DFAS debt. Applicant could reasonably be expected to have attempted to arrange for installment payments of the car and DFAS debts, and to have paid off the smaller debts. Even if I accept that he paid \$7,000 to resolve a debt not alleged in the SOR, he presently has about \$10,000 in savings, so he could afford some payments to his creditors. AG ¶ 20(b) does not fully apply.

AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control," and AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," are not established in the absence of any recent efforts on his part to address the debts in the SOR. He indicated in his Answer to the SOR that he had payment arrangements to satisfy the debt within 24 months, and that he had paid off the debts in SOR 1.d and 1.e. Yet, at his hearing, he expressed his intent to pay the debts in SOR 1.d and 1.e. Concerning the DFAS debt, Applicant has not contacted the

insurance company since 2011 or his former employer since 2012 about the debt. He has not tried to make any arrangements with the auto lender owed \$10,813 as of November 2012.

AG ¶ 20(e), “the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue,” could have been mitigating of the DFAS debt if Applicant had proven that his medical condition should have been covered by medical insurance. His assertion that his former employer should not have sent him to a war zone without full insurance coverage is not enough to meet his burden under AG ¶ 20(e). Applicant is no longer disputing the legitimacy of the satellite television debt. AG ¶ 20(e) does not apply to the debts in the SOR.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(a).¹⁶ Applicant has family ties to Pakistan that heighten the risk of foreign influence. Although an ally of the United States in some respects, Pakistan’s interests are not fully aligned with the United States. Pakistan faces threats of violence from terrorist and extremist groups operating within its borders, and it has allowed some extremist groups to operate with impunity. The Pakistani government does not fully comply with the rule of law or protect civil liberties in many instances. While not to minimize the contributions that Applicant has made to the United States through his work as a linguist, Applicant’s family situation continues to present an unacceptable risk for the reasons already discussed.

Furthermore, Applicant has not handled his personal debt obligations fully responsibly. His inattention to his DFAS debt generates doubt about whether he can be counted on to act without regard to his or his family’s interests. After considering all the facts and circumstances, I am unable to find that it is clearly consistent with the national interest to grant Applicant a security clearance at this time.

¹⁶The factors under AG ¶ 2(a) are as follows:

- (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual’s age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Formal Findings

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

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraph 1.a: Against Applicant
Subparagraph 1.b: Against Applicant
Subparagraph 1.c: Against Applicant
Subparagraph 1.d: Against Applicant
Subparagraph 1.e: Against Applicant
Subparagraph 1.f: Against Applicant

Paragraph 2, Guideline B: AGAINST APPLICANT

Subparagraph 2.a: Against Applicant
Subparagraph 2.b: Against Applicant
Subparagraph 2.c: For Applicant
Subparagraph 2.d: Against Applicant
Subparagraph 2.e: Against Applicant
Subparagraph 2.f: Against Applicant
Subparagraph 2.g: Against Applicant¹⁷
Subparagraph 2.h: 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 a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge

¹⁷ SOR 2.g is found against Applicant because three of the sisters-in-law are married to Applicant's brothers or half-brothers, with whom he has ongoing contact. Similarly, SOR 2.h is found against Applicant because he has brothers-in-law through marriage to his sisters, with whom he has contact.