DATE: November 8, 2005

In re:

SSN: ----------

Applicant for Security Clearance

ISCR Case No. 02-29735

DECISION OF ADMINISTRATIVE JUDGE

MICHAEL J. BRESLIN

APPEARANCES

FOR GOVERNMENT

Sabrina Redd, Esq., Department Counsel

FOR APPLICANT

L. Lynn Hogue, Esq.

SYNOPSIS

Applicant was an officer in the Public Health Service (PHS). After his son was born with severe health problems and his wife suffered a debilitating illness, Applicant left the PHS for more lucrative employment. The government claimed recoupment of funds paid as retention bonuses and incentive pay. Applicant contested the claims upon the advice of counsel. Applicant denied the existence of the debt on his security clearance application. Later, a court ruled against him at trial and Applicant paid the debt. Applicant has distant relatives in Israel; he maintains casual but regular contact with his mother's first cousin. Applicant mitigated the security concerns relating to foreign influence, personal conduct, and financial considerations. Clearance is granted.

STATEMENT OF THE CASE

On July 15, 2002, Applicant submitted an application for a security clearance. The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant under Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified (the "Directive"). On May 14, 2004, DOHA issued a Statement of Reasons (SOR) detailing the basis for its decision. The SOR alleges security concerns raised under the Directive, specifically Guideline B, Foreign Influence, Guideline F, Financial Considerations, and Guideline E, Personal Conduct.

Applicant answered the SOR in writing on June 1, 2004. He elected to have a hearing before an administrative judge.

The case was assigned to me on August 1, 2005. With the concurrence of Applicant and Department Counsel, I scheduled the hearing on September 13, 2005. On August 31, 2005, Applicant's counsel requested a delay to allow more time to obtain documents necessary to Applicant's case. I denied the request for delay, but indicated I would leave the record open to admit additional documents if necessary.

At the hearing, the government introduced Exhibits 1 through 6. Applicant's counsel provided Exhibits A through E, and

Applicant testified on his own behalf. Applicant's counsel did not require additional time to obtain further documents. DOHA received the final transcript of the hearing (Tr.) on September 28, 2005.

FINDINGS OF FACT

Applicant admitted the factual allegations in ¶¶ 1.a, 1.b, 1.c, and 1.d of the SOR. Applicant's Answer to SOR, dated June 1, 2004. Those admissions are incorporated herein as findings of fact. He denied the factual allegations in ¶¶ 2.a and 3.a of the SOR. *Id.* After a complete and thorough review of the evidence in the record, I make the following additional findings of fact.

Applicant is 51 years old. Ex. 1 at 1. He is a corporate officer for a defense contractor providing health science related services to the United States government. Ex. A at 2; Tr. at 18.

Applicant was graduated *summa cum laude* from a U.S. university in 1977. Ex. A at 1. He attended medical school at a prominent U.S. university, completed a pediatric internship, and was awarded a medical degree in 1981. *Id.* He did a residency in preventive medicine with a state's department of public health and was awarded a Masters of Public Health degree in 1984 from a leading U.S. educational institution.

In 1984, Applicant accepted a commission as an officer in the U.S. Public Health Service. Tr. at 26. He worked as an epidemiologist in a center devoted to disease control. Tr. at 26. In 1987, Applicant moved to the computer department, where he began a group developing large databases for public health research. Tr. at 26. Applicant's endeavors grew into a separate discipline known as public health and informatics. Tr. at 26, 38. Applicant is a recognized expert in this field. Tr. at 42. He co-authored a chapter on medical informatics for the standard textbook of public health. Tr. at 37; Ex. A at 11. Applicant successfully held a security clearance while serving in the U.S. Public Health Service between about 1984 and 1997. Ex. 1 at 11, 12.

As an officer in the U.S. Public Health Service, Applicant received compensation in addition to his regular salary. This included a Multi-year Retention Bonus, a Retention Special Pay Contract, and Incentive Special Pay. Ex. 5 at 5. These special compensation arrangements included terms requiring some recoupment if the officer did not complete specified periods of service.

In 1995, Applicant's son was born. Ex. 5 at 9. The child had multiple congenital problems which resulted in at least thirteen surgeries, 176 days of hospitalization, special therapy, medication, and weekly doctor's visits. *Id.*

About that same time, Applicant's wife developed debilitating psychological problems, later diagnosed as severe paranoia with schizophrenic symptoms. Tr. at 27. Because of her psychiatric illness, she was medically discharged from her employment, increasing the financial demands on Applicant.

In 1997, Applicant realized he needed to find employment offering a higher income and more flexible work hours in order to provide for his family. Ex. 5 at 9; Tr. at 27. Applicant recognized that terminating his contract early would result in a government claim for reimbursement of some of his special pay but concluded he would separate from the Public Health Service and pay any necessary penalties. Ex. 2 at 1. The government asserted a claim for more than $28,000.00. Ex. 5 at 5. Applicant retained legal counsel, who advised him that he owed about $3,000.00, and that he could apply for a waiver of this debt. Ex. 2 at 1; Tr. at 28-29. Applicant's counsel also advised him not to sign anything, make any agreements with the government, or communicate with the government about this alleged debt. Tr. at 35. While the dispute was pending, the government obtained some funds from Applicant in the amount of about $11,500.00 through garnishments and offsets. Tr. at 61; Ex. B at 2, 3.

Applicant obtained employment with a corporation providing clinical and management information systems and services to the health care industry, and worked there from 1997 until 2002. Ex. A at 2. In 2002, he assumed his present position as an officer of corporation providing health science services to government agencies. *Id.* The defense contractor's services to the U.S. include inspecting all laboratories that handle certain toxins and diseases that could present a bioterrorist threat. Tr. at 40-41.

In July 2002, Applicant completed an SF 86, Security Clearance Application, to obtain the security clearance necessary

for the position. Ex. 1 at 1. Question 38 of the application form inquired whether Applicant had been over 180 days delinquent on any debts within the preceding seven years. Applicant answered, "No." Ex. 1 at 11. Question 39 asked whether he was then over 90 days delinquent on any debts. Applicant answered "No" to this question. Ex. 1 at 11. Applicant indicated he denied the debt in keeping with his lawyer's advice not to correspond with the government about the debt. Tr. at 58.

Applicant's attorneys and government counsel engaged in protracted discussions but failed to resolve the controversy over Applicant's repayment of funds. Ex. 5; Ex. B, Ex. C. Ultimately, the government initiated a civil lawsuit against Applicant for reimbursement. After the initiation of this action, the case went to trial, the government prevailed, and in February 2005, the court ordered Applicant to pay the government $36,556.47. Ex. D. Applicant satisfied the judgment in March 2005, shortly after receiving the notice. Ex. E; Tr. at 34.

Applicant has relatives who are citizens and residents of Israel. Tr. at 66-67; Applicant's Answer to SOR at 1. His mother has a first cousin who was formerly a judge on a municipal court in a principal city in Israel. Tr. at 20. Applicant has only seen this individual a few times in his life, most recently during a honeymoon trip to Israel in 2002. Tr. at 21. At the time of the hearing, she was retired. Tr. at 19-20. Applicant's relationship with this relative is casual and contact between them is very infrequent. Tr. at 67.

Applicant's mother has another first cousin who is also a citizen and resident of Israel. Tr. at 21. This individual is retired from her job as an occupational therapist and epidemiologist. Tr. at 22. She works part-time for a charitable organization in Israel that provides educational resources for needy children. Tr. at 21-22. Applicant considers this individual a friend-he speaks to her on the telephone once or twice a month, and sees her in the U.S. once or twice a year during her fund-raising trips. Tr. at 22.

Both of his mother's first cousins (described above) have children. Tr. at 23. Applicant knows the children only slightly. He met some of them casually when they visited the U.S. as tourists, but does not maintain any contact. Tr. at 23. Applicant does not know the names of all these relatives. *Id.* at 23, 50.

POLICIES

The President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position … that will give that person access to such information." *Department of the Navy v. Egan*, 484 U.S. 518, 527 (1988). In Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), the President set out guidelines and procedures for safeguarding classified information within the executive branch.

To be eligible for a security clearance, an applicant must meet the security guidelines contained in the Directive. Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions and mitigating conditions under each guideline. The adjudicative guidelines at issue in this case are:

Guideline B, Foreign Influence. A security risk may exist when an individual's immediate family, including cohabitants, or other persons to whom he may be bound by affection, influence, or obligation, are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure. Directive, ¶ E2.A2.1.1.

Guideline F, Financial Considerations. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1.

Guideline E, Personal Conduct. Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the applicant may not properly safeguard classified information. Directive, ¶ E2.A5.1.1.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security

concerns pertaining to these adjudicative guidelines, are set forth and discussed in the conclusions below.

"The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance." Directive, ¶ E2.2.1. An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person. *Id.* An administrative judge should consider the following factors: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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. *Id.*

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may disqualify the applicant from being eligible for access to classified information. Directive, ¶ E3.1.14. Thereafter, the applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate the facts. Directive, ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security." Directive, ¶ E2.2.2.

A person granted access to classified information enters into a special relationship with the government. The government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. The decision to deny an individual a security clearance is not a determination as to the loyalty of the applicant. Exec. Ord. 10865, § 7. It is merely an indication that the applicant has not met the strict guidelines the President has established for issuing a clearance.

CONCLUSIONS

I considered carefully all the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

Guideline B, Foreign Influence

Paragraph E2.A2.1.2.1 of the Directive provides that it may be disqualifying if "an immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country." Paragraph E2.A2.1.3.1 defines "immediate family members" to include a spouse, father, mother, sons, daughters, brothers, and sisters.

None of Applicant's relatives who are citizens and residents of Israel are "immediate family members" as defined by the Directive, therefore it is necessary to determine whether they are persons to whom Applicant "has close ties of affection or obligation." Applicant candidly admitted that he had feelings of affection for both of his mother's first cousins in Israel. Tr. at 67. Thus, this potentially disqualifying condition applies with regard to those individuals. Applicant's acquaintance with the children of these individuals is much more remote-he does not even know all their names. I find this potentially disqualifying condition does not arise as a result of those relationships.

Under the Directive, this potentially disqualifying condition can be mitigated under certain circumstances. The Government produced substantial evidence establishing a disqualifying condition, thus Applicant had the burden to produce evidence to rebut, explain, extenuate, or mitigate the condition. Directive, ¶ E3.1.15. The government never has the burden of disproving a mitigating condition. ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

Paragraph E2.A2.1.3.1 of the Directive provides that it is potentially mitigating where the "associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person involved and the United States." Notwithstanding the facially disjunctive language, applicants must establish: (1) that the individuals in question are not "agents of a foreign power," and (2) that they are not in a position to be exploited by a foreign power in a way that could force the applicant to chose between the person(s) involved and the United States. ISCR Case No. 02-14995 at 5 (App. Bd. Jul. 26, 2004).

The phrase "agent of a foreign power" is defined by 50 U.S.C. § 1801(b) to include anyone who acts as an officer or employee of a foreign power engaged in international terrorism, or engages in clandestine intelligence activities in the U.S. contrary to the interests of the U.S. or that may involve a violation of the criminal statutes of the United States. None of Applicant's relatives meet the definition of "agent of a foreign power" under 50 U.S.C.A. § 1801(b).

The Appeal Board, however, has adopted a broader definition of the phrase "agent of a foreign power." The Appeal Board has held that, "An employee of a foreign government need not be employed at a high level or in a position involving intelligence, military, or other national security duties to be an agent of a foreign power for purposes of Foreign Influence Mitigating Condition 1." ISCR Case No. 02-24254, 2004 WL 2152747 (App. Bd. Jun. 29, 2004). *See also* ISCR Case No. 03-04090 at 5 (App. Bd. Mar. 3, 2005) (employee of the Israeli government is an agent of a foreign power) and ISCR Case No.02-29143 at 3 (App. Bd. Jan. 12, 2005) (a member of a foreign military is an agent of a foreign power). None of Applicant's relatives are employees of the government or government-controlled entities, members of the military, or terrorists. Even applying this broader definition, none of Applicant's family members are "agents of a foreign power."

The second prong of the test is whether the relatives in question are "in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States." A federal statute, 50 U.S.C.A. § 1801(a), defines "foreign power" to include: a foreign government; a faction of a foreign nation; an entity openly acknowledged by a foreign government to be controlled by that foreign government; a group engaged in international terrorism; a foreign-based political organization; or an entity directed and controlled by a foreign government. The Appeal Board construes the term "foreign power" broadly.

It is also important to note at the outset that the mitigating condition in question focuses on whether a foreign power would exploit its citizens or residents in such a way as to have an applicant act adversely to the interests of the United States. At times, the Appeal Board has placed great emphasis on evidence that a foreign power has engaged in intelligence gathering. ISCR Case No. 02-22461 at 5 (App. Bd. Oct. 22, 2005). However, there are a great many ways to gather intelligence information and the great majority of them do not involve exploitation of an applicant's relatives or associates overseas. The mitigating condition in question is not focused on whether the foreign power collects intelligence information generally, rather it focuses whether a foreign power could exploit relatives and applicants in such a way as to cause an applicant to act adversely to the United States.

In assessing whether an applicant is vulnerable to exploitation through relatives or associates in a foreign country, it is necessary to consider all relevant factors. As noted above, ¶¶ E2.2.1, E2.2.2, and E2.2.3 of the Directive specifically require each administrative judge to consider all the facts and circumstances, including the "whole person" concept, when evaluating each individual case. To ignore such evidence would establish a virtual *per se* rule against granting clearances to any person with ties to persons in a foreign country, contrary to the clear terms of the Directive.

An important factor for consideration is the character of the foreign powers, including the government and entities controlled by the government, within the relevant foreign country. This factor is not determinative; it is merely one of many factors which must be considered. Of course, nothing in Guideline B suggests it is limited to countries that are hostile to the United States. *See* ISCR Case No. 00-317 at 6 (App. Bd. Mar. 29, 2002); ISCR Case No. 00-0489 at 12 (App. Bd. Jan. 10, 2002). The Appeal Board repeatedly warns against "reliance on overly simplistic distinctions between 'friendly' nations and 'hostile' nations when adjudicating cases under Guideline B." ISCR Case No. 00-0317 at 6 (App. Bd. Mar. 29, 2002). It is well understood that "[t]he 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). Distinctions between friendly and unfriendly governments must be made with extreme caution. Relations between nations can shift, sometimes dramatically and unexpectedly. Moreover, even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, friendly nations have engaged in espionage against the United States, especially in economic, scientific, military, and technical fields. ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at ** 15-16 (App. Bd. Mar. 29, 2002). Nevertheless, the relationship between a foreign government and the U.S. may be relevant in determining whether a foreign government or an entity it controls is likely to attempt to exploit a resident or

citizen to against the U.S. through the applicant. The nature of the foreign government might also relate to the question of whether the foreign government or an entity it controls would risk jeopardizing its relationship with the U.S. by exploiting or threatening its private citizens in order to force a U.S. citizen to betray this country. The Appeal Board has specifically held that it is error for an administrative judge to fail to consider a hostile relationship between the U.S. and a foreign country. ISCR Case No. 02-13595 at 4 (App. Bd. May 10, 2005). The Appeal Board has held that "a country's poor human rights record and its differences with the United States on important security issues such as terrorism are factors" that a judge must consider. ISCR Case No. 04-05317 at 5 (App. Bd. June 3, 2005). A friendly relationship is not determinative, but it may make it less likely that a foreign government would attempt to exploit a U.S. citizen through relatives or associates in that foreign country.

It is commonly known that Israel is a parliamentary democracy, whose interests are not inimical to those of the United States. Indeed, the United States and Israel enjoy close economic and political ties. Israel has, in the past, been an active collector of intelligence information. However, there is no history of the Israeli government, or entities controlled by the Israeli government, exploiting or using influence, pressure, force, incentive, or coercion against its citizens or residents for the purpose of making the holder of a security clearance in the U.S. act adversely to the United States. That factor is not determinative, but suggests it is less likely that Israel would attempt to exploit its residents or citizens to act adversely to the interests of the United States in the future.

As noted above, the term "foreign power" includes non-governmental organizations, including political parties and terrorist groups. Such groups operate within Israel; Applicant acknowledged terrorists pose a threat to the personal safety of residents of Israel. However, there is no history of foreign powers in Israel exploiting citizens or residents in such a way as to cause or attempt to cause their relatives in the U.S. holding a security clearance to act adversely to U.S. interests. This factor is not determinative, but tends to suggest that the risk is minimal.

Another factor which must be considered is Applicant's relatives' vulnerability to exploitation by foreign powers in Israel. Indeed, the mitigating condition in question is phrased in terms of whether the associates in question are "in a position to be exploited by a foreign power." Applicant's relatives are not employees of the Israeli government, entities controlled by the government, its military forces, or terrorist groups. They are retirees, therefore less vulnerable to any possible governmental threat to their employment. One relative works for a charity providing educational benefits in a major city in Israel and travels regularly to the United States. This has some limited relevance-while she is present in the United States, she is not vulnerable to the threats that arise from her presence in Israel. Considering all the circumstances, I find Applicant's relatives in Israel are no more vulnerable to exploitation by a foreign power than any other person in Israel. I conclude ¶ E2.A2.1.3.1 of the Directive applies.

Under ¶ E2.A2.1.3.3 of the Directive, it may also be mitigating where "[c]ontact and correspondence with foreign citizens are casual and infrequent." Applicant does not stay in close or continuing contact with his mother's first cousin named in ¶ 1.a of the SOR (Tr. at 21-22) or his more distant cousins included in ¶ 1.c (Tr. at 23). Applicant's contact with these individuals is very limited, and qualifies as "casual and infrequent" under this potentially mitigating condition. Applicant is closer to his mother's first cousin named in ¶ 1.b of the SOR; he communicates with her about once each month an sees her once or more each year. I conclude Applicant's contact with this individual is not "casual and infrequent." I considered each allegation regarding Applicant's relatives individually in order to properly consider all the specific circumstances, and because the Directive, ¶ E3.1.25, requires an administrative judge to make specific findings for each allegation. I also considered the totality of Applicant's ties to Israel. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003). I did not make conclusions based upon a piecemeal consideration of the available evidence.

I considered carefully all the potentially disqualifying and mitigating conditions in this case in light of the "whole person" concept, keeping in mind that any doubt as to whether access to classified information is clearly consistent with national security must be resolved in favor of the national security. Applicant is a mature individual with an impressive history of service to this country, including many years of work requiring a security clearance. The potential for pressure, coercion, exploitation, or duress is extremely low. Applicant has strong ties to this country: his immediate family members, his substantial personal assets, and his professional standing within the scientific community are all in the United States. Applicant's ties to his relatives Israel are not strong: he shares relatively frequent contact with one relative, and knows the others more distantly. He visited Israel only once, on his honeymoon, and has no financial assets there. Balancing these potentially disqualifying and mitigating conditions in light of all the evidence, I conclude

Applicant has mitigated the potential security concerns arising from his personal ties to relatives in Israel.

Guideline F, Financial Considerations

Paragraph E2.A6.1.2.1 of the Directive provides that it may be a disqualifying condition if the evidence reveals "[a] history of not meeting financial obligations." Similarly, ¶ E2.A6.1.2.3 indicates that an "[i]nability or unwillingness to satisfy debts" may be disqualifying. Applicant does not have a history of failing to meet his financial obligations. The available evidence shows that Applicant paid his bills on time and is not financially overextended, notwithstanding significant personal hardships. The one exception-and the basis for this allegation-was the governmental claim for repayment of bonuses and special pay arising from his decision to leave the Public Health Service before the end of the contracted period. He maintained that the formula for calculating the recoupment should have been prorated for the period of service he provided, and that the relatively small amount remaining should be waived because of his personal hardship. He retained counsel, spent years in negotiation, and even went to trial to press his position. When the verdict was resolved in favor of the government, Applicant promptly paid the claimed debt. After a careful review of the available evidence, I find Applicant honestly and reasonably believed that this was not a legitimate financial obligation, therefore his refusal to pay was not irresponsible conduct, nor does it raise a security concern.

Department counsel ably argued that, after several years of negotiations, Applicant was aware that his need for a waiver was no longer compelling, therefore he knew he owed the government at least several thousand dollars for several years. However, the government had already recouped about $11,500.00 dollars from Applicant's last paychecks and subsequent tax refunds, thus Applicant had good reason to believe the amount the government already seized more than satisfied that debt. Instead, Applicant thought the government owed him money.

I conclude the evidence shows Applicant does not have a history of failing to meet his financial obligations or an unwillingness to satisfy his debts. The essence of the security concern under Guideline F is that a person "who is financially overextended is at risk of having to engage in illegal acts to generate funds." Applicant is not financially overextended-he has paid the sole debt alleged in this action. None of the potentially disqualifying conditions apply under this guideline.

Guideline E, Personal Conduct

The Directive sets out various factors relevant to an applicant's personal conduct that may be potentially disqualifying. Under ¶ E2.A5.1.2.2 of the Directive, "[t]he deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire" may be disqualifying. Paragraph 3.a of the SOR alleges Applicant deliberately failed to report his debt to the government in response to questions 38 and 39 on his security clearance application completed in September 2002. Applicant asserted he did not report the debt because he did not believe he owed it. Furthermore, he maintained his attorneys advised him not to sign any statements to the government admitting or discussing the debt then in dispute. I considered carefully the documents reflecting the negotiations concerning the debt in question, and Applicant's testimony and demeanor at the hearing. It is clear that at the time Applicant submitted the security clearance application in July 2002, Applicant and his counsel denied the debt claimed by the government. Applicant believed that, if he owed any funds due to recoupment, they were far less than the amount the government had already collected from him. I find Applicant did not deliberately falsify his answers to questions 38 and 39 of the security clearance application. I conclude this potentially disqualifying condition does not apply.

FORMAL FINDINGS

My conclusions as to each allegation in the SOR are:

Paragraph 1, Guideline B: FOR APPLICANT

Subparagraph 1.a: For Applicant

Subparagraph 1.b: For Applicant

Subparagraph 1.c: For Applicant

Subparagraph 1.d: For Applicant

Paragraph 2, Guideline F: FOR APPLICANT

Subparagraph 2.a: For Applicant

Paragraph 3, Guideline E: FOR APPLICANT

Subparagraph 3.a: For Applicant

DECISION

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Michael J. Breslin

Administrative Judge