



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



In the matter of:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 07-17367

**Appearances**

For Government: Robert E. Coacher, Esquire, Department Counsel  
For Applicant: *Pro Se*

March 10, 2009

**Decision**

WESLEY, Roger C., Administrative Judge:

**History of Case**

On June 10, 2008, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to Applicant, which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an administrative judge to determine whether his clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on July 2, 2008, and elected to have his case decided on the basis of the written record. Applicant received the File of Relevant Material (FORM) on December 5, 2008. Applicant did not submit any information in response to the FORM. The case was assigned to me on January 6, 2009. Based upon a review of the case file, pleadings, and exhibits, eligibility to access classified information is denied.

Besides its 11 exhibits, the Government requested administrative notice of six documents: *Background Note: Nigeria*, U.S. Department of State (July 2008); Congressional Research Service, *CRS Report for Congress, Nigeria: Current Issues* (January 2008); *Country Specific Information, Nigeria*, U.S. Department of State (June 2008); *Country Reports on Human Rights Practices - 2007, Nigeria*, U.S. Department of State (March 2008); *Travel Warning: Nigeria*, U.S. Department of State (October 2007); *Warden Message*, U.S. Diplomatic Mission, Nigeria (June 2008).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 (App. Bd. April 12, 2007); ISCR Case No. 05-11292 (App. Bd. April 12, 2007). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in Nigeria. Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evi. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Nigeria's current state.

### **Summary of Pleadings**

Under Guideline B, Applicant is alleged (a) to have a mother and father who are citizens and residents of Nigeria, (b) to have a sister and brother who are citizens and residents of Nigeria, and (c) to have traveled to Nigeria every other year during the period 1998 through 2005.

Under Guideline C, Applicant is alleged to (i) possess a Nigerian passport that was issued in November 2005 and does not expire until November 2010 and (ii) be a dual citizen of the U.S. and Nigeria.

Under Guideline F, Applicant is alleged to have nine delinquent that exceed \$7,000.00. Two of these debts are allegedly charged off.

For his answer to the SOR, Applicant admitted some of the allegations, but denied others. He admitted that he traveled to Nigeria on several occasions between 1998 and 2005 to visit his parents, but did not answer any of the remaining allegations concerning the country status of his parents and siblings. He admitted to carrying a Nigerian passport with his green card when he joined the military. He claimed to have last used his Nigerian passport when he traveled to Nigeria to visit his parents, and is willing to turn in the passport to demonstrate his U.S. allegiance as a U.S. army veteran of the Iraq War. Applicant stressed the importance he attached to his U.S. citizenship and expressed his willingness to resolve all of his Nigerian citizenship issues.

Applicant admitted most of his alleged debts. He denied any debts with creditors 3.c and 3.g through 3.i., however, and claimed to have paid off these latter disputed creditors.

## Findings of Fact

Applicant is a 37-year-old technician for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

### Applicant's background

Applicant was born and raised in Nigeria to parents of Nigerian citizenship and residency. By virtue of his birth to Nigerian parents, Applicant was eligible for Nigerian citizenship himself. Through his parents he became a Nigerian citizen and attended Nigerian primary and secondary schools.

Applicant immigrated to the U.S. from Nigeria in July 1997 to pursue higher education goals. He applied for U.S. citizenship and became a naturalized U.S. citizen in September 2004 (see ex. 8). After becoming a naturalized U.S. citizen, he retained his Nigerian citizenship. He remains a dual citizen of the U.S. and Nigeria (ex. 8). Applicant also retained his Nigerian passport (due to expire in November 2010) and used it on several occasions between 1998 and 2002 when traveling to Nigeria to visit his family (ex. 8). He expressed a willingness to surrender his Nigerian passport should he be asked to do so, but has failed to take any steps to surrender it to date (see exs. 7 and 8). So, too, he expressed his willingness to renounce his Nigerian citizenship should he be asked, but has failed to take any documented steps to surrender the passport to his facility clearance officer (FSO), or other authorized official.

Shortly after his arrival in the U.S., Applicant enlisted in the U.S. Army (ex. 8). Between August 1998 and March 2005, he served in the Army as a new member/gunner (see ex. 1).

Applicant's mother and father are citizens and residents of Nigeria. His father is a retired school teacher, and his mother is a trades woman (see ex. 8). Also, he has a sister and brother who are citizens and residents of Nigeria (ex. 8). His sister is a banker; while his brother's occupation is unknown. The administrative record does not provide any documentation of whether or not the parents and siblings have ever worked or associated with officials of the Nigerian government and military.

During the period of 1998 through 2005, Applicant traveled bi-annually to Nigeria to visit his family. Typically, he spent 10 to 14 days on his visits. Before he became a U.S. citizen, he used his Nigerian passport to visit his parents in Nigeria. On his last visit to Nigeria in 2005, though, he used his U.S. passport (see ex. 8). He renewed his Nigerian passport in November 2005 only to avoid "corrupted Nigerian officials" when he traveled to Nigeria (ex. 7).

Applicant communicates with his parents monthly by telephone, and speaks with his sister once or twice a month by telephone (see ex. 8). He maintains no reported contacts with his brother in Nigeria (ex. 8).

Before immigrating to the U.S., Applicant married the woman he met in high school and dated in college. He married W in July 1997 just before departing for the U.S. (Ex. 8). Following his 1998 enlistment in the Army, he applied for W's entry into the U.S. Three years later (in 2002), he was advised by U.S. Immigration officials that W could not be granted an immigration visa (reasons unknown). For the three years of W's pending visa application, Applicant mailed money to W in Nigeria (ex. 8).

Tired of waiting for a visa, W filed for divorce in Nigeria and obtained a marriage nullification in February 2005. Applicant mailed his last payment (\$1,500.00) to W in February 2005. It is unclear whether Applicant mailed the \$1,500.00 before or after he was notified of W's divorce application (see ex. 4).

Applicant has no children from his marriage to W. He has no property in Nigeria, and has never served in the Nigerian military. Nor has he ever voted in a Nigerian election. Applicant has three half-sisters. His last contact with his ex-wife and her family was in 2005 (ex. 8).

### **Nigeria's country status**

Nigeria is a federal republic in western Africa that gained its independence from Great Britain in 1960 as a federation of three regions (northern, western and eastern). Today, Nigeria comprises 36 states and the capital territory of Lagos. It has a population base of 140 million (see *Background Note: Nigeria*, U.S. Department of State (July 2008)). Since gaining its independence, Nigeria has experienced periods of political instability, economic crises, ethnic and religious conflict, extreme poverty, a lack of law and order, judicial corruption, and military coups (*CRS Report for Congress, Nigeria: Current Issues* (January 2008)). Nigeria has been ruled by its military for 28 of its 43 years since independence (see *Background Note, Nigeria, supra*, at 2-5). The country returned to civilian rule in May 1999 with the democratic election of Olusegun Obasanjo (*id.* at 5).

Besides being the largest trading partner of the U.S. in sub-Saharan Africa, with total two-way trade valued at \$30.8 billion, Nigeria remains Africa's largest oil producer. State Department reports confirm that Nigeria's bilateral relationship with the U.S. has continued to improve (see *Background Note, Nigeria, supra*, at 6-7). However, the trade balance favors significantly favors Nigeria due to its oil exports, which continue to be substantial,

Insurgent activities have brought turmoil to the Niger Delta region's oil producing sector over perceived uneven and/or unfair oil revenue distribution (see *Background Note: Nigeria, supra*, at 7-8). In response to numerous reports of kidnaping for ransom of persons associated with the petroleum sector (including U.S. citizens), the U.S. State Department has updated its *Travel Warning* for Nigeria in October 2007 (see *Travel Warning: Nigeria*, U.S. Department of State (October 2007)). The *Travel Warning* advises U.S. citizens of the dangers of travel to Nigeria and of further deterioration of security in the Niger Delta region. The *Travel Warning* states, too, that al-Qaida

leadership operating in the region has expressed interest in overthrowing the ruling authorities (see *id.*, at 1).

Widely circulated reports of ransom kidnaping of oil sector personnel in recent years in the Niger Delta region of Nigeria are attributed to hatched schemes by radical groups in the oil-rich Delta region to extort money out of foreign governments (see *CRS Report for Congress, Nigeria: Current Issues, supra*, at 16). This has created tensions with the U.S., and the long-term impacts these actions have on Nigeria's oil industry in general are still unclear.

Despite its democratic government and an established judiciary, Nigeria's government suffers from a poor human rights record (see *Country Reports on Human Rights Practices - 2007, Nigeria*, U.S. Department of State (March 2008)). The State Department's *Country Reports on Human Rights Practices* documents Nigerian government officials at all levels committing serious abuses against Nigeria's citizens and visitors. Sani Abacha's regime was especially repressive. Under his regime, all branches of the security forces committed serious human rights abuses. Documented abuses by security forces include politically motivated, extrajudicial killings as well as torture and arbitrary arrest (see *id.*, at 5-6). Instability and incidents of armed conflicts between religious, political, and ethnic factions comprising Muslim, Christian and other ethnic groups have marked Nigeria's political landscape (see *Travel Warning: Nigeria, supra*, at 1). Since Abacha's death in June 1998, his replacements have released most known civilian political detainees (see *Background Note: Nigeria, supra*, at 5).

In the areas of peace and security, the U.S. has supported peacekeeping and simulation centers at Nigeria's armed forces staff college (Africa's only such center), while promoting effective civilian oversight of the military and its adherence to human rights norms (see *Background Note: Nigeria, supra*, at 10). In addition to its efforts aimed at fostering maritime cooperation with security services in the Niger Delta region, the U.S. has continued to support the European union's leading role in helping Nigeria fight corruption, organized criminal elements, drug traffickers, and terrorists (see *id.*). Reports confirm that Nigeria remains a member in good standing of ECOWAS, a West-African trade union and a constructive trading partner with the U.S. (see *id.*).

### **Applicant's finances**

Applicant incurred a number of delinquent debts before he relocated to a Western European country in 2001. One of the listed debts represents a personal loan he used to send money to his parents following his immigration to the U.S. The delinquent amount on this creditor 3.a debt is \$1,320.00. Applicant has not heard from this creditor since 2001, and has not repaid this debt.

Applicant disputes two of the listed delinquent debts. He claims he paid the creditor 3.d debt in 2005 through a represented collection agent (see ex. 8). He documents a money order made out to the collection agent of the creditor in the amount of \$550.00 (see ex. 3). Applicant's credit report lists a past due balance of \$1,328.00 for

this creditor, as of October 2005, and Applicant provides no further proof of his satisfying this debt in full. Applicant also disputes the listed delinquent debts with creditors 3.c, 3.f, 3.g and 3.i (ex. 3). Of these debts, he documents payments in full to creditors 3.c and 3.h (see exs. 3 and 8). He claims no familiarity with creditors 3.f and 3.g. Applicant provides no proof of any documented disputes with the credit reporting agencies or the creditors themselves with respect to any of his disputed creditors. However, none of Applicant's claimed disputes with creditors 3.c, 3.f, 3.g and 3.i (see ex. 3) are listed in his most recent credit report (see ex. 3). Based on Applicant's claims and the absence of any notation of these creditors in his most recent credit report, Applicant is credited with resolving his disputed debts with creditors 3.c, 3.f, 3.g, and 3.i.

Applicant does not dispute any of the remaining debts listed in the SOR (*i.e.*, creditors 3.a, 3.b, and 3.e), and provides no proof of payment of these debts (see exs. 3 and 8). By all credible accounts, he remains indebted to these creditors in the approximate total amount of \$5,300.00. He provides no evidence of payment plans to address any of these listed creditors and no documented credit counseling.

### **Policies**

The revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (effective September 2006) list Guidelines to be considered by administrative judges in the decision-making process covering DOHA cases. These Guidelines require the administrative judge to consider all of the "Conditions that could raise a security concern and may be disqualifying" (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied. The Guidelines do not require the administrative judge to assess these factors exclusively in arriving at a decision. In addition to the relevant Adjudicative Guidelines, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in E.2.2 of the Adjudicative Process of Enclosure 2 of the Directive, which are intended to assist the administrative judges in reaching a fair and impartial common sense decision.

Viewing the issues raised and evidence as a whole, the following adjudication policy concerns are pertinent herein:

### **Foreign Influence**

*The Concern:* "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 the this Guideline can and should considered 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." See Adjudicative Guideline (AG) B, ¶ 6.

## **Foreign Preference**

*The Concern:* “When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.” See AG C, ¶ 9.

## **Financial Considerations**

*The Concern:* “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. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts.” See AG F ¶ 18.

## **Burden of Proof**

By virtue of the precepts framed by the Directive, a decision to grant or continue an Applicant’s request for security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a common sense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant’s eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. As with all adversary proceedings, the Judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the Judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government’s initial burden is twofold: (1) It must prove any controverted facts alleged in the Statement of Reasons and (2) it must demonstrate that the facts proven have a material bearing to the applicant’s eligibility to obtain or maintain a security clearance. The required showing of material bearing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, consideration must take account of cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government’s case.

## **Analysis**

Applicant presents as a technician for a defense contractor who after being born and raised in Nigeria, immigrated to the U.S. in 1997 to pursue his education and became a naturalized citizen in 2004. Claiming the need for a Nigerian passport to aid him in traveling back to Nigeria, he retained his Nigerian passport after becoming a U.S. citizen and obtaining a U.S. passport.

Dual citizenship concerns necessarily entail country allegiance assessments and invite critical considerations over acts indicating a preference or not for the interests of the foreign country over the interests of the U.S. In a different vein, the continued residence of his immediate family members (his parents and younger brother) and his wife's immediate family members in Nigeria raise potential concerns about their being vulnerable to future pressure or duress that could result in the compromise of classified information. The issues, as such, raise concerns over Applicant's preference for a foreign country over the U.S., and the potential for members of Applicant's immediate and extended family being placed at risk to pressure or duress to induce Applicant to divulge classified information he might be privy to.

### **Foreign Influence**

Security concerns are raised over the presence of Applicant's immediate family (*i.e.*, his parents, sister and brother) who are citizens and residents of Nigeria, a country historically plagued by military coups, domestic turmoil, and a poor human rights record. Department Counsel urges security concerns over risks that Applicant's parents, sister, and brother residing in Nigeria might be subject to undue foreign influence by Nigerian government and military authorities to access classified information in Applicant's possession or control.

Because Applicant's immediate family members reside in Nigeria, they present potential heightened security risks covered by disqualifying condition (DC) ¶ 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," of the Adjudication Guidelines for foreign influence. The citizenship/residence status of these immediate family members and in-laws in Nigeria pose some potential concerns for Applicant because of the risks of undue foreign influence that could compromise sensitive or classified information under Applicant's possession and/or control.

The administrative record does not contain enough information to determine whether any of Applicant's parents or siblings have any connections with the Nigerian government or military. Without some evidence of family connections to the Nigerian government or military, consideration of DC ¶ 7(b), "connection 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,” is not warranted.

Further, from what is known from the presented evidence, it remains unclear whether any of Applicant’s immediate family residing in Nigeria have any (a) political affiliations with Nigeria’s government or military, (b) history to date of being subjected to any coercion or influence, or (c) are vulnerable to the same. All that is known about applicant’s parents is that Applicant’s father is a retired school teacher and his mother is a trades woman. With the exception of his father’s likely teacher’s pension, neither his parents nor siblings have any known tangible financial interests associated with the Nigerian government.

Nigeria, although a country reported to have a history of military coups and human rights violations, enjoys a non-hostile relationship with the U.S., and is a democratic government with some respect for the rule of law in the areas of foreign trade and commerce. While Nigeria has a documented record of turmoil and kidnaping in its oil-rich Niger Delta region, it generally enjoys stable diplomatic and trade relationships with the U.S.

The Adjudicative Guidelines governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical necessity be weighed on a case-by-case basis, guidelines are available for referencing in the supplied materials and country information about Nigeria.

Nigeria remains a non-hostile trading partner of the U.S. and is a country whose democratic institutions are not wholly incompatible with our own traditions and respect for human rights and the rule of law. Unlike the old Adjudicative Guidelines, the new ones do take into account the country’s demonstrated relations with the U.S. as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The Appeal Board has been clear and consistent in its holdings that the nature of the foreign government, the intelligence gathering history of that government, and the presence of terrorist activity in the country are material to a foreign influence case. See ISCR Case No. 07-07266 (App. Bd. Dec. June 27, 2008); ISCR Case no. 02-26130 (App. Bd. Dec. Dec. 7, 2006).

So, clearly, the geopolitical aims and policies of the particular foreign regime involved do matter. Nigeria, while reported to have human rights and insurgency issues in its Niger Delta region, is still a country with no known recent history of government-sponsored hostage taking or disposition for exerting undue influence against family members to obtain either classified information, or unclassified economic and proprietary data.

As for security concerns associated with the presence of Applicant's relatives in Nigeria, any potential heightened risk of a hostage situation or undue foreign influence brought in the hopes of eliciting either classified information or economic or proprietary data out of Applicant through his family members residing in Nigeria is quite remote. Applicant, accordingly, may take advantage of one important mitigating condition: MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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 a foreign individual, group, organization, or government and the interests of the U.S." Since relocating to the U.S. in 1997, Applicant has demonstrated loyalty, patriotism, and professional commitments to the U.S. Whatever potential conflicts he may have through his dual Nigerian citizenship and contacts with his family members in Nigeria have been more than counterbalanced by his demonstrated U.S. citizenship responsibilities.

Appraising risks associated with Applicant's dual citizenship status with Nigeria, the presence of Applicant family members in Nigeria, his past family visits to Nigeria, and his regular contacts with these family members, any risk of undue foreign influence on Applicant and/or his parents and siblings, who reside in Nigeria would appear to be insubstantial, and clearly not of the magnitude that could make them subject to a heightened security risk of coercion, pressure or compromise under Guideline B.

Whole person assessment also serves to minimize Applicant's exposure to conflict of interests with his Nigerian family members. Not only is Applicant a naturalized U.S. citizen and U.S. Army veteran, but he has made every effort to work, save, and pursue his financial interests exclusively in the U.S. Any likelihood of coercion, pressure, or influence being brought to bear on any of his immediate family members would appear to be minimal. By all reasonable accounts of the presented record, Applicant has no visible conflicts of interest with Nigerian citizen/residents or property interests in Nigeria that could be at risk to exploitation or compromise by Nigerian military or intelligence officials.

Overall, any potential security concerns attributable to Applicant's family members residing in Nigeria are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial relationships in Nigeria. Favorable conclusions warrant with respect to the allegations covered by sub-paragraphs 1.a through 1c of Guideline B.

### **Foreign Preference**

By virtue of his birth in Nigeria to parents of Nigerian descent and citizenship, Applicant was endowed with Nigerian citizenship through his parents. This citizenship could not be lost except by express renunciation, approved by the Nigerian Government, which Applicant has never explored. He has never used his renewed Nigerian passport, since he became a naturalized citizen, and indicates a willingness to surrender it if he

were asked to do so. Presumably, he still retains his Nigerian passport. He has provided no documentation of his surrendering the passport to his FSO, or other authorized official. Risks of his being taken hostage behind Nigerian lines and denied the customary diplomatic intercession made available to U.S. citizens traveling on U.S. passports remain for so long as Applicant retains his Nigerian passport.

The Appeal Board has tended to blur convenience/force of law distinctions when appraising claimed legal necessity reasons (concerns about dealing with Nigerian officials in applicant's case) for holding onto a foreign passport. See ISCR Case No. 99-0424 (App. Bd. February 8, 2001); ISCR Case No. 99-0254 (App. Bd. February 16, 2000). To be sure, his exercise of choice to renew and retain his Nigerian passport for back-up support when traveling to Nigeria after becoming a U.S. citizen is itself a voluntary election. His election was not a submission to legal compulsion, when made in juxtaposition to known security risks extant in traveling to a country that lacks acceptable security protections against terrorists operating within the country. By applying for renewal of a Nigerian passport, Applicant provides some indicia of a conscious preference for Nigeria, even if it was for perfectly logical and understandable reasons: wanting to avoid confrontations with Nigerian officials.

So, even Applicant's limited exercise of dual citizenship is sufficient under the facts of this case to invoke one disqualifying condition of the Guidelines covering foreign preference: DC 10(a), "exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member (inclusive of possession of a current foreign passport)." Concerns over Applicant's foreign preference for Nigeria through his continued possession of his Nigerian passport and dual U.S.-Nigerian citizenship remain considerable.

Applicant has no assets in Nigeria, though, and assures his preference is for the U.S. He has never voted in a Nigerian election, served in Nigeria's military, or worked for Nigeria's government. By contrast, all of his assets and financial interests are situated in the U.S.. And in his case, his dual citizenship with Nigeria is based solely on his parents' Nigerian citizenship and his birth in that country. Based on these considerations, one mitigating condition is partially applicable to Applicant's situation: MC ¶ 11(b), "the individual has expressed a willingness to renounce dual citizenship." However, because he conditioned his willingness to renounce his Nigerian citizenship on someone's requesting him to do so first, the mitigating condition has only limited application.

Two potentially applicable mitigating conditions may not be considered. Having exercised a privilege of his dual Nigerian citizenship by renewing his Nigerian passport in 2005, Applicant is not in a position to claim the mitigation benefits of these two mitigating conditions: MC ¶ 11(a), "dual citizenship is based solely on his parents' citizenship or birth in a foreign country," and MC ¶ 11(c), "exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen or when the individual was a minor."

Considering all of the circumstances surrounding Applicant's dual citizenship exercise and lack of any documented surrender of his Nigerian passport or clear expression of an intent to renounce his Nigerian citizenship, conclusions warrant that Applicant's exhibited active dual citizenship by his renewing and possessing a Nigerian passport after becoming a U.S. citizen is not mitigated. His qualified intentions with respect to his Nigerian passport and dual citizenship status do not satisfy expressed Appeal Board burden requirements relative to successful discounting residual security risks that exist with his continued exercise of dual Nigerian citizenship. Unfavorable conclusions warrant with respect to sub-paragraphs 2.a and 2.b of Guideline C.

### **Financial concerns**

Security concerns are also raised under the financial considerations guideline. Applicant's accumulation of a number of delinquent debts and his failure to mount any sustained effort to resolve the three largest debts listed in the SOR warrant the application of two of the disqualifying conditions (DC) of the AGs for financial considerations: ¶ 19(a), "inability or unwillingness to satisfy debts" and ¶ 19(c), "a history of not meeting financial obligations."

Since receiving the SOR, Applicant has not provided any documentation of his pursuing financial counseling, establishing a payment plan, or addressing his three largest debts. Aside from his probative efforts in paying or resolving his six smaller debts listed in the SOR, he has not been able to make any tangible headway with any of his other charged off and collection accounts. Without any evidence of counseling and addressing these remaining debts, Applicant may not take advantage of MC ¶ 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."

Holding a security clearance involves the exercise of important fiducial responsibilities, among which is the expectancy of consistent trust and candor. Financial stability in a person cleared to access classified information is required precisely to inspire trust and confidence in the holder of the clearance. While the principal concern of a clearance holder's demonstrated financial difficulties is vulnerability to coercion and influence, judgment and trust concerns are explicit in financial cases (as here) and bring into play security concerns covered by the financial considerations guideline.

Based on the limited information available in this administrative record, it appears that Applicant has not been in a financial position to make any concerted progress in addressing his three largest debts to date. Based on these exhibited circumstances, MC ¶ 20(b) of the financial considerations guideline, "the conditions that resulted in the behavior 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," has some applicability to Applicant's inability to resolve his debt issues. MC ¶ 20(b) cannot be fully applied, however, due to the lack of sufficient

information from Applicant on the origination, payment history, and attempted repayment efforts since receiving the SOR.

To be sure, Applicant could reasonably be expected to have initiated more timely and material repayment efforts with the resources available to him following his military discharge. While his initiated debt identification efforts are encouraging, it is still too soon to mitigate his historical difficulties with his finances, given the lack of any significant repayment progress he has been able to demonstrate to date with his three major creditors..

Whole person assessment of Applicant's financial problems is hampered by the limited amount of information supplied in this administrative record. Applicant is able to show some extenuating circumstances associated with his divorce. And his military service with the Army is commendable and worthy of increased overall trust. His demonstrated resolution of his smaller debts is indicative of some earnest resolve and accountability, and adds some positive reflections of his overall judgment, reliability and trustworthiness while holding a security clearance. His lack of any tangible attention to his old debts, however, still leaves doubts about the stability of his finances at the present time. These doubts cannot be reconciled with minimum requirements for retaining the Government's confidence in his financial judgment, reliability and trustworthiness.

Taking into account all of the facts and circumstances surrounding Applicant's debt accumulations and corrective steps she has demonstrated to date, Applicant fails to mitigate security concerns related to his outstanding debt delinquencies and judgment lapses associated therein. Unfavorable conclusions warrant with respect to the allegations covered by the financial considerations guideline.

In reaching my recommended decision, I have considered the evidence as a whole, including each of the factors and conditions enumerated in E2(a) of the Adjudicative Process of Enclosure 2 of the Directive.

### **Formal Findings**

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant's eligibility for a security clearance.

GUIDELINE B: (FOREIGN INFLUENCE):	FOR APPLICANT
Sub-paras. 1.a through 1.c::	FOR APPLICANT
GUIDELINE C (FOREIGN PREFERENCE):	AGAINST APPLICANT
Sub-paras. 2.a and 2.b:	AGAINST APPLICANT

GUIDELINE F (FINANCIAL CONSIDERATIONS):	AGAINST APPLICANT
Sub-para. 3.a:	AGAINST APPLICANT
Sub-para. 3.b:	AGAINST APPLICANT
Sub-para. 3.c:	FOR APPLICANT
Sub-para. 3.d:	FOR APPLICANT
Sub-para. 3.e:	AGAINST APPLICANT
Sub-para. 3.f:	FOR APPLICANT
Sub-para. 3.g:	FOR APPLICANT
Sub-para. 3.h:	FOR APPLICANT
Sub-para. 3.i:	FOR APPLICANT

### **Conclusions**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is denied.

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Roger C. Wesley  
Administrative Judge