



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:	)	
	)	
XXXX, Xxxxxx	)	ISCR Case No. 08-00114
SSN: XXX-XX-XXXX	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Braden M. Murphy, Esquire, Department Counsel  
For Applicant: *Pro se*

November 26, 2008

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

On 12 June 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F and B.<sup>1</sup> Applicant answered the SOR on 21 July 2008, and requested a decision without hearing. DOHA assigned the case to me 23 October 2008. The record in this case closed 5 October 2008, the day Applicant's response to the government's File of Relevant Material (FORM) was due. Applicant did not respond to the FORM.

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<sup>1</sup>DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the Revised Adjudicative Guidelines (RAG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

## Findings of Fact

Applicant admitted SOR financial allegations 1.a., 1.d., 1.f., 1.h., 1.j., and all foreign influence allegations of paragraph 2. She denied the remaining allegations of paragraph 1. She is a 48-year-old administrative assistant employed by a U.S. defense contractor located in South Korea since June 2006. She has not previously held a clearance.

The SOR alleges, and government exhibits substantiate, nine delinquent debts totaling nearly \$113,000 (Item 9).<sup>2</sup> Applicant admits four debts totaling nearly \$67,000, and admits that \$20,000 of her indebtedness is due to gambling losses. Although she denies five debts totaling nearly \$46,000, her credit reports, her subject interview (Item 8), and her clearance application (Item 4) establish the separate accounts owed to the same creditors. Although Applicant attributes her indebtedness to her unemployment, inadequate support from her spouse, and low-paying jobs, the record reflects that she has been continuously employed since May 2003 (except for a brief period of unemployment February-May 2006) and has been divorced from her spouse since January 1987. She has not contacted any of her creditors. Except for an unnamed creditor who has attached her wages for \$1,700 as of July 2008, has not paid on any of her debts.

Applicant was born in the Republic of Korea (South Korea) in December 1959. Her father, now deceased, was an ambassador for the South Korean government. The record does not indicate when she immigrated to the U.S., but she became a naturalized U.S. citizen in August 1990.

Applicant resides in South Korea with her mother and sister, both of whom are resident citizens of South Korea. Her brother is also a resident citizen of South Korea. Her son, a U.S. citizen, also lives in South Korea. Applicant inherited a one-third interest in the apartment where she lives and another property from her father. She also owned another apartment that she claims, without corroboration, was sold to satisfy taxes on her father's estate.

The South Korean government has an aggressive, effective intelligence-gathering operation that targets economic and proprietary information in the U.S. However, its human rights practices are generally respectful of democratic institutions.

## Policies

The Revised Adjudicative Guidelines (RAG) list factors to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each issue fairly

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<sup>2</sup>However, Item 5 (the earliest credit report in the record, and the one with the most complete account numbers) establishes that the debts at SOR 1c. and 1.i are the same account with different alleged balances. Accordingly, I find allegation 1.c. for Applicant to avoid duplication of findings.

raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in RAG ¶ 2(a). The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guidelines are Guideline F (Financial Considerations) and Guideline B (Foreign Influence).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.<sup>3</sup>

### **Analysis**

The government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties, which is ongoing.<sup>4</sup> Her stated reasons for her indebtedness demonstrate that she is unwilling or unable to live within her means, and has further complicated her finances by gambling.

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and multiple.<sup>5</sup> The debts were not due to circumstances beyond her control and she has not acted responsibly in addressing her

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>¶19.(a) inability or unwillingness to satisfy debts; (b) indebtedness caused by frivolous or irresponsible spending and the absence of any evidence of willingness or intent to pay the debt or establish a realistic plan to pay the debt; (c) a history of not meeting financial obligations; . . . (f) financial problems that are linked to . . . gambling problems . . .

<sup>5</sup>¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

debts.<sup>6</sup> There is no evidence that she has sought credit counseling or otherwise brought the problem under control.<sup>7</sup> None of her debts has been paid much less paid in a timely, good-faith effort.<sup>8</sup> Further, given her unwillingness to seek or use financial counseling, there is nothing in the record to suggest that Applicant will put her financial problems behind her. I conclude Guideline F against Applicant.

Under Guideline B (Foreign Influence), an applicant's foreign contacts and interests may raise security concerns if the individual 1) has divided loyalties or foreign financial interests, 2) may be manipulated or induced to help a foreign person, group, organization, or government in a way contrary to U.S. interests, or 3) is vulnerable to pressure or coercion by any foreign interest. Foreign influence adjudications 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, whether the country is known to target U.S. citizens to obtain protected information and/or is associated with a risk of terrorism.<sup>9</sup> More specifically, an individual's contacts with foreign family members (or other foreign entities or persons) raise security concerns only if those contacts create a heightened risk or foreign exploitation, inducement, manipulation, pressure, or coercion.<sup>10</sup>

The government established a case for disqualification under Guideline B because of her close and continuing contacts with her mother, sister, brother and son, as well as her property interests in South Korea. In addition, although her father is deceased, the fact that he was previously an ambassador for the South Korean government suggests that her family may have more visibility to the government than if none of her family members had previously served in the government at such a high level. Although South Korea is not known to specifically target its citizens to obtain U.S. information, it aggressively pursues such information.<sup>11</sup> Applicant's residence in South Korea with her mother and sister, her property interests there, as well as her son's residence in South Korea, puts her in a much more vulnerable position than if she resided outside South Korea. In her current circumstances she presents a potential target of opportunity that presents an unacceptable risk of being influenced to provide information. I resolve Guideline B against Applicant.

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<sup>6</sup>¶20.(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

<sup>7</sup>¶20.© the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

<sup>8</sup>¶20.(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

<sup>9</sup>Revised Adjudicative Guidelines, ¶ 6.

<sup>10</sup>Revised Adjudicative Guidelines, ¶ 7.(a).

<sup>11</sup>Revised Adjudicative Guidelines, ¶ 7.(a).

## **Formal Findings**

### Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph a:	Against Applicant
Subparagraph b:	Against Applicant
Subparagraph c:	For Applicant
Subparagraph d:	Against Applicant
Subparagraph e:	Against Applicant
Subparagraph f:	Against Applicant
Subparagraph g:	Against Applicant
Subparagraph h:	Against Applicant
Subparagraph i:	Against Applicant
Subparagraph j:	Against Applicant

### Paragraph 2. Guideline B: AGAINST APPLICANT

Subparagraph a:	Against Applicant
Subparagraph b:	Against Applicant
Subparagraph c:	Against Applicant
Subparagraph d:	Against Applicant
Subparagraph e:	Against Applicant
Subparagraph f:	Against Applicant
Subparagraph g:	Against Applicant
Subparagraph h:	Against Applicant

## **Conclusion**

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 a security clearance for Applicant. Clearance denied.

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JOHN GRATTAN METZ, JR  
Administrative Judge