



**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. 09-00569

**Appearances**

For Government: Daniel F. Crowley, Esquire, Department Counsel  
For Applicant: *Pro se*

September 30, 2010

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

**History of Case**

On November 23, 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing reasons why DOHA could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines (AGs).

Applicant responded to the SOR on December 7, 2009, and requested a hearing. The case was scheduled for hearing on April 13, 2010. A hearing was held on the

scheduled date. At the hearing, the Government's case consisted of nine exhibits (GE). Applicant relied on one witness (himself) and no exhibits. The transcript (Tr.) was received on April 21, 2010.

Besides its nine exhibits, the Government requested administrative notice of five documents: *Background Note: Iraq*, U.S. Department of State (February 2008); *Country Specific Information: Iraq*, U.S. Department of State (January 25, 2010); *Travel Warning: Iraq*, U.S. Department of State (November 2009) *Country Reports on Terrorism 2008*, U.S. Department of State (April 2009); *2008 Human Rights Report: Iraq*, U.S. Department of State (February 2009).

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). 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 Iraq.

Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Iraq's current status.

### **Summary of Pleadings**

Under Guideline B, Applicant is alleged in the SOR to: (a) have a mother, three brothers, and two sisters who are citizens and residents of Iraq; (b) have a spouse who is a citizen of Iraq and resides in the U.S.; (c) send \$600 a month to his family in Iraq; and (d) have traveled to Iraq in 2006, 2007, and 2009 to visit relatives.

Under Guideline E, Applicant is alleged to have falsified his Questionnaire for National Security Positions (e-QIP) by omitting his driving under the influence (DUI) arrest of July 1999 and his October 2007 criminal trespass arrest (banned from a casino for two years by the court, and the charges were dismissed in January 2008).

Under Guideline F, Applicant is alleged to have accumulated 11 delinquent debts exceeding \$32,000. Allegedly, the debts have not been satisfied.

In his response to the SOR, Applicant admitted all of the allegations. He added no explanations.

### **Findings of Fact**

Applicant is a 44-year old former employee 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.

## **Background**

Applicant was born and raised in Iraq. He served in the Iraqi military between 1991 and 1992, and has no further obligations to fulfill his mandatory military service as an Iraqi citizen. (GE 4) He has expressed a willingness to renounce his Iraqi citizenship. (GE 4)

Applicant immigrated to the U.S. in 1996 without any familiarity with the English language. (see GE. 4; Tr. 91-92) He was naturalized as a U.S. citizen in September 2005. (GE 1) Applicant's spouse is a citizen of Iraq who resides in the U.S. Applicant married his spouse in 2007, and they have one child from their marriage. (GE 1; Tr. 56, 67) She moved to the U.S. in April 2009 and intends to apply for U.S. citizenship. (Tr. 75-76) Before she can apply for U.S. citizenship, she will need to first apply for and obtain permanent resident status in the U.S. (GE 4)

Applicant's mother, three brothers, and two sisters are citizens and residents of Iraq. (see GE 1; Tr. 55, 63-65) Applicant maintains monthly telephone contact with his mother, and relies on her to convey messages to his other family members. (Tr. 69, 72) He communicates less frequently with his brothers and sisters. (Tr. 72-73) Applicant periodically travels *to Iraq to visit his family. Specifically, he traveled to Iraq in 2006, 2007, and 2009.* (see GEs 1 and 4 through 7; Tr. 76-78)

Until recently, Applicant sent about \$600 a month to his family members in Iraq. (GEs 4 and 6) Pending his receipt of his security clearance, his employer has suspended him from employment. (see GE 7; Tr. 52, 58) Without work, he has had to suspend his practice of providing financial assistance to his family. (Tr. 73-74)

Still dual citizens of Iraq and the U.S., Applicant and his wife recently voted in Iraqi elections. (Tr. 78-79) Because his wife is not a U.S. citizen, she cannot vote in U.S. elections. (Tr. 79) Given his Shiite religious attachments and Saddam Hussein's years of political domination, Applicant does not feel he can safely return to Iraq for any extended period without placing himself at considerable risk. (Tr. 77)

### **Iraq's country status**

Iraq is a country of 27 million that is broken down along ethnic and religious lines: Shiites, Sunni, Kurds and Turkoman comprise the predominant ethnic and sectarian groups. Once known as Mesopotamia (the fertile crescent), Iraq is bordered by Kuwait, Iran, Turkey, Syria, Jordan, and Saudi Arabia (see *Background Note, Iraq, supra*, at 2-3). At the end of World War I, Iraq became a British-mandated territory, and founding member of the Arab League (*id.*).

General Abdul Karim Qasim assumed power in a July 1958 coup and held power for five years before succumbing to the Ba'ath Party's takeover of the Iraqi government,

and Hasan al-Bakr's selection as prime minister. (see *Background Note, Iraq, supra*, at 4) When Bakr resigned in 1979, Saddam Hussein assumed the reigns of power. Under Saddam Hussein's direction, Iraq launched a major invasion of its neighbor, Iran in the 1980s (see *Background Note Iraq, supra*). Iraq declared victory in 1988 and survived to claim the largest military establishment in the region. Iraq then turned its forces to mounted attacks against the ongoing Kurdish rebellion by Kurdish elements in the northern mountains of Iraq.

Iraq invaded Kuwait in August 1990, and was repelled by a U.S.-led coalition in February 1991 (see *Background Note, Iraq, supra*). After the war, the UN Security Council required the Hussein regime to surrender to the coalition and submit to UN inspections. When the Ba'ath regime refused to fully comply, the Security Council invoked sanctions to prevent further weapons of mass destruction (WMD) development, and to enforce Iraq's surrender terms. Coalition forces employed limited no-fly zones in southern and northern Iraq and a limited no-drive zone in southern Iraq to prevent the regime from invading Kuwait again. (*id.*)

In 2003, A U.S.-led coalition invaded Iraq and succeeded in removing Saddam Hussein and his Ba'athist regime from military and political power (see *Background Note, Iraq, supra*, at 3). After two years of operations under a provisional authority, Iraq's new government assumed office in March 2006 (with the approval of the U.S. Government), following free elections. (see *id.*)

Notwithstanding the election of a new national government with U.S. backing, violence continued to envelop the country. This violence was fueled and perpetrated by Al Qieda terrorists, Sunni insurgents, and, Shiite militias and death squads. (see *Background Note, Iraq, supra*, and *Country Reports on Terrorism 2008, supra*) State Department reports document human rights abuses that include a "pervasive climate of violence, misappropriation of official authority by sectarian, criminal and insurgent groups; arbitrary deprivation of life, disappearances, torture and other cruel, inhumane or degrading treatment or punishment." (see *id.*)

Since March 2006, the Government of Iraq has been comprised of a broad coalition of political alliances representing the Shiite, Sunni and Kurdish blocs. (see *Background Note, Iraq, supra*, at 8) While elections have been held, none of the key constituent groups have been able to form a government, adopt an oil law, establish and maintain effective security throughout the provinces, or neutralize sectarian divisions. In this still very fragile political environment in Iraq, there are substantiated reports of human rights abuses that continue to underscore a still pervasive climate of tension and violence.

Economically, Iraq's economy continues to be dominated by the oil sector, as it has for the past half century since the completion of new pipelines to Lebanon in 1949, and to Syria in 1952. (see *Background Note, Iraq, supra*) As a result of the U.S.-led invasion in 2003, much of Iraq's oil refining capabilities were shuttered. The rebuilding of oil infrastructure and utilities infrastructure has continued to expand since 2004 with U.S.

aid and support, despite setbacks from insurgent activity. Proposed oil revenue sharing legislation still awaits passage, however, and at the moment, there are no good estimates of when such legislation will be approved and implemented. For the foreseeable future, the national government can be expected to continue to seek the passage and implementation of a revenue sharing law to strengthen and encourage the development of this important sector (*see id.*)

Despite recent improvements in its security enforcement efforts, Iraq remains a very dangerous, volatile and unpredictable country. The U.S. State Department continues to strongly warn U.S. citizens against traveling to Iraq. (*see Travel Warning, Iraq, supra*, at 1) Attacks against military and civilian targets throughout Iraq continue and include sites and facilities where foreign tourists frequently visit: hotels, restaurants, police stations, check points, foreign diplomatic missions, international organizations, and other locations with expatriate personnel. (*id.*)

### **Applicant's e-QIP omissions**

Asked to complete a security clearance application in July 2008, Applicant omitted his 1999 DUI arrest and his 2007 criminal trespass arrest. Applicant attributes his omissions to haste, language difficulties, and confusion over the meaning of arrest. (Tr. 89-91) The questions were straight-forward, though, and not susceptible to mistaken reading. Considering Applicant's arrest history, education, and experience at the time, Appellant cannot avert inferences that he knowingly and wilfully omitted his 2007 and 2008 arrests from his e-QIP.

When questioned by an agent from the Office of Personnel Management (OPM) in September 2008, Applicant was confronted with his two omitted arrests and disclosed them fully when pressed by the agent. (Tr. 89-90, 96, 112) Applicant's explanations are insufficient to avert inferences he acknowledged his arrests voluntarily without prompting.

### **Applicant's finances**

Since his lay-off in 2002, Applicant accumulated considerable delinquent debts. (*see GE 4*) His credit reports reflect 11 delinquent debts (mostly credit cards) exceeding \$32,000. (*see GEs 2, 8, and 9*) Many of these delinquent accounts reflect debts related to his periods of unemployment and gambling losses. (Tr. 99-101)

Since he moved to his current state of residence in October 2009, he has ceased gambling. (Tr. 100-05) However, he can document little progress in addressing his debts. His personal financial statement reflects an \$1,820 net monthly remainder and no payment progress on his delinquent debts, despite periods of gainful employment when he enjoyed positive cash flows (*see GEs 5 and 6; Tr. 106-09*). He provided no repayment plan to address his delinquent debts, and has sought no financial counseling. (Tr. 109)

## **Endorsements**

Applicant provided no endorsements, performance evaluations, or evidence of community service. Little is known about his work experience and personal life outside what of what was developed in the Government's exhibits.

## **Policies**

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and all of the "[c]onditions that could mitigate security concerns," if any. These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following 2(a) 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 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.

Viewing the issues raised and evidence as a whole, the following individual guidelines 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 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. (see AG ¶ 6)

### **Personal Conduct**

*The Concern:* Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. (AG, ¶ 15)

### **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. (AG, ¶ 18)

### **Burden of Proof**

By virtue of the principles and policies framed by the revised AGs, a decision to grant or continue an applicant's 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 commonsense 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. See *Kungys v. United States*, 485 U.S. 759, 792-800 (1988). As with all adversarial 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 by substantial evidence any controverted facts alleged in the SOR, 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 materiality showing, 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 evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his clearance eligibility. “[S]ecurity-clearance determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

### **Analysis**

Applicant is a former employee of a defense contractor who has family members who are both citizens and residents of Iraq. Trust concerns are raised under the foreign influence guideline due to Applicant's longstanding family ties to Iraq. Although his contacts with family members residing in Iraq appear to somewhat limited, they do involve his mother and five siblings. He continues to maintain regular contact with his mother and siblings. Until he ran into recent financial problems following his lay-off, he regularly sent money to his family, and he has traveled every two or three years to Iraq to visit them. Iraq is also a liberated ally of the U.S. that has encountered difficulty forming a government and avoiding a return to sectarian conflict that has dominated the region for many years.

Security concerns over Applicant's e-QIP omissions and his finances are also raised. They are addressed as well.

### **Foreign influence concerns**

Key to the Government's foreign influence concerns are Applicant's immediate family members who still reside in Iraq, a country in the process of establishing a stable democratic government able to protect all of its disparate constituent groups and maintain peace with its neighbors. Despite the encouraging developments in Iraq, the country is still very dangerous and volatile in certain sectors.

Applicant's historically close relationship with his living family members in Iraq makes them potentially vulnerable to coercion and non-coercive measures because of their close familial family ties with Applicant. Because non-governmental entities operating in Iraq, as well as the former Iraqi military and intelligence authorities, have



a history of violating Iraqi domestic laws and regulations, and international laws, they are more likely to use improper and/or illegal means to obtain classified information in Applicant's possession or control through his siblings and in-laws.

Because Applicant's contacts with his Iraqi family members occurred in a war zone, the Government urges security concerns over risks that his face to face and telephonic contacts with his immediate family members might be subject to exploitation, coercion, or duress by Iraqi military and government authorities to access classified information in Applicant's possession or control. Applicant's activities warrant some application of two of the disqualifying conditions of the foreign influence guideline: 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." The citizenship/residence status of Applicant's siblings in Iraq 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.

Although none of Applicant's family members have any identified Iraqi military or government service, or other demonstrated links to the Iraqi government, they remain vulnerable to potential compromise and coercion for so long as they reside in Iraq. Were any of these family members to be placed in a hostage situation, Applicant could be subject to conflicts over ensuring his family's well being and protecting classified information. For this reason, 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 applicable to the facts of this case.

True, neither Applicant's mother nor any of his siblings residing in Iraq have any history to date of being subjected to any coercion or influence. These historical antecedents do limit the severity of a conflict situation. However, the absence of any past coercive measures taken by Iraqi authorities does not absolve Applicant from coercive risks in the future given Iraq's checkered history of political instability, violence, hostage taking, and abusive measures taken against its own citizens.

The AGs governing security clearances do not dictate *per se* results or mandate particular outcomes for any chosen set of guidelines covering risks of foreign influence. 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. Personnel security assessments necessarily embrace similar risk assessments under the new AGs for assessing foreign influence risks and concerns associated with the individual's having family abroad, which include both common sense assessments of country risks and information available from public sources.

Unlike the old Adjudicative Guidelines, though, 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 geopolitical aims and policies of the particular foreign regime involved do matter.

Mitigation is not available to Appellant under the foreign influence guideline of the AGs. Based on his case-specific circumstances, 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." is not applicable to Applicant's circumstances. Information about Applicant's family members is too limited to permit safe predictions about their future safety, and Applicant's exposure to risks of pressure and compromise of any of his family members currently residing in Iraq.

Of some benefit to Applicant is MC ¶ 8(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." Applicant's demonstrated loyalty and commitment to the U.S. and its institutions and values and the absence of any history of coercive measures taken against any of his family members residing in Iraq are sufficiently demonstrated to warrant some application of MC ¶ 8(b).

Heightened risks associated with Applicant's long concealed status of his mother and siblings cannot be safely discounted. Iraq's strategic location and political character and Applicant's case specific relationships with his immediate family members in Iraq combine to create pressing security concerns over risks of direct or indirect pressure or influence of a family member of Applicant's by Iraqi authorities, or (more likely) by terrorists or insurgents operating in Iraq.

To complete a whole-person assessment of Applicant's foreign influence risks to ascertain whether they are fully compatible with the restoration of his security clearance, Applicant's U.S. citizenship and his wife's U.S. citizenship interests require careful balancing. Whole-person assessment takes account of Applicant's immigration to the U.S. to pursue a better life for himself and his wife. Without any character references, performance evaluations, or community credits to appraise his commitments to the U.S., and responsibility at work and in his community, it is difficult to find evidence of positive contributions to neutralize risks associated with raised foreign influence concerns.

Overall, potential security concerns attributable to Applicant's relations with his mother, brothers, and sisters residing in Iraq (as Iraqi citizens), are insufficiently mitigated to permit safe predictive judgments about the ability of Applicant and his family members to withstand pressure, compromise, or coercion from government and non-government sources in Iraq. Unfavorable conclusions warrant with respect to the allegations covered by Guideline B.

### **Falsification concerns**

Applicant omitted his 1999 DUI arrest and 2007 criminal trespass arrest from the e-QIP he completed in July 2008.” By omitting his criminal arrests, Appellant failed to furnish materially important background information that was needed for the Government to properly process and evaluate his SF-86.

Applicant does not challenge the omissions, but attributes them to haste, language difficulties, and confusion over the meaning of the term “arrest.” Despite his claims, the questions as written in the e-QIP are straight-forward and manifestly comprehensible to Applicant, given his level of education and experience at the time. His omissions invite the application of the DC ¶ 16(a) of the personal conduct guideline, “deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.”

Considering his arrest history, his court appearances associated with each arrest, Applicant’s guilty pleas associated with each arrest, and the plain wording of question 23 of his e-QIP, Applicant’s omissions cannot be excused. His omissions were made knowingly and wilfully under all of the circumstances,

When interviewed two months later by an OPM agent, Applicant disclosed his arrests. Review of his summary of interview reflects clear evidence of prompting by the interviewing agent. Under the circumstances, his corrections cannot be considered sufficiently prompt and voluntary to enable him to take advantage of MC ¶ 17(a), “the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” Applicant’s corrections do reflect candid, sincere, and complete corrections. Nonetheless, they fail to meet both the prompt and good-faith prongs of MC ¶ 17(a), as these terms have generally been interpreted by the Appeal Board.

Taking into account all of the evidence and circumstances surrounding Applicant’s two omitted arrests and his less than prompt and voluntary disclosures of them when questioned by an OPM agent, conclusions warrant that the allegations are are not mitigated. Unfavorable conclusions are warranted with respect to the allegations covered by Guideline E.

## Financial concerns

Applicant's admissions of the debts covered in the SOR negate the need for the Government to provide any independent proof of the debts. But the Government has documented proof of the listed debts just the same. The listed debts in the SOR are fully documented in his latest credit reports and provide ample independent proof of the debts. Applicant does not dispute any of the debts. Accumulation of these debts, and his past inability to pay, or otherwise address them, warrant the application of two of the disqualifying conditions (DC) of the Guidelines: DC ¶ 19(a), "inability or unwillingness to satisfy debts," and DC ¶ 19(c) "a history of not meeting financial obligations."

Holding a security clearance involves a fiduciary relationship between the Government and the clearance holder. Quite apart from any agreement the clearance holder may have signed with the Government, the nature of the clearance holder's duties and access to classified information necessarily imposes important duties of trust and candor on the clearance holder that are considerably higher than those typically imposed on government employees and contractors involved in other lines of government business. (*see Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980)) Failure of an applicant to make more concerted efforts to pay or resolve his debts when able to do so raises security-significant concerns about the sufficiency of the applicant's demonstrated trust and judgment necessary to safeguard classified information.

Extenuating circumstances are very limited. To a large extent, Applicant's listed debts involve credit card accounts that he used to gamble with before he relocated to his current state of residence. Loss of employment has hampered his ability to address his debts., but his unemployment alone does not explain his failure to demonstrate any repayment efforts with his creditors. Consequently, 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 limited application to Applicant's circumstances.

Taking into account all of the documented facts and circumstances surrounding Applicant's financial history, the limited extenuating circumstances associated with his accumulation of the debts, and his inability to address any of them without full time employment, Applicant cannot be credited with mitigating financial concerns and restoring the state of his finances to stable levels commensurate with the minimum requirements for holding a security clearance. Unfavorable conclusions warrant with respect to the allegations covered by Guideline F.

In reaching my decision, I have considered the evidence as a whole, including each of the factors and conditions enumerated in AG ¶ 2(a).

## 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):	AGAINST APPLICANT
Subpara. 1.a:	Against Applicant
Subpara. 1.b:	Against Applicant
Subpara. 1.c:	Against Applicant
Subpara. 1.d:	Against Applicant
GUIDELINE E (PERSONAL CONDUCT):	AGAINST APPLICANT
Subpara. 2.a:	Against Applicant
Subpara. 2.b:	Against Applicant
GUIDELINE F (FINANCIAL CONSIDERATIONS):	AGAINST APPLICANT
Subparas. 3.a through 3.k:	Against 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 Applicant access to classified information. Clearance is denied.

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Roger C. Wesley  
Administrative Judge

