



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



In the matter of: )  
)  
) ISCR Case No. 09-03911  
)  
)  
Applicant for Security Clearance )

**Appearances**

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

February 22, 2010

**Decision**

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the pleadings, exhibits, and testimony, I conclude that Applicant failed to mitigate the government’s security concerns under Guideline F, Financial Considerations, Guideline E, Personal Conduct, and Guideline B, Foreign Influence. His eligibility for a security clearance is denied.

Applicant completed and signed an Electronic Questionnaire for Investigations Processing (e-QIP) on December 22, 2008. He was interviewed about his financial issues by an authorized investigator from the U.S. Office of Personnel Management (OPM) on April 9, 2009. On July 2, 2009 and July 22, 2009, Applicant provided notarized responses to interrogatories posed by the Defense Office of Hearings and Appeals (DOHA). On August 12, 2009, DOHA issued Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline F, Financial Considerations, Guideline E, Personal Conduct, and Guideline B, Foreign Influence. 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 revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

On September 9, 2009, Applicant answered the SOR in writing and elected to have a hearing before an administrative judge. The case was assigned to me on November 16, 2009. Applicant was working overseas and elected to return to the United States for his hearing. Accordingly, his hearing was scheduled to accommodate his leave and travel schedule.

I convened a hearing on January 20, 2010, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The government called no witnesses and introduced eight exhibits, which were marked Ex. 1 through 8 and admitted to the record without objection. The government also offered two documents containing facts for administrative notice. These two documents were marked as Hearing Exhibits (HE) 1 and 2 and included, without objection, in the record. Applicant testified on his own behalf and called no witnesses. He introduced three exhibits, which were marked as Exs. A through C and admitted to the record without objection. DOHA received the transcript (Tr.) of the hearing on January 26, 2010.

### **Findings of Fact**

The SOR contains three allegations of disqualifying conduct under AG F, Financial Considerations (SOR ¶¶ 1.a. through 1.c.); six allegations of disqualifying conduct under AG E, Personal Conduct (SOR ¶¶ 2.a., 2.b., 2.c., 2.d., 2.e., and 2.f. (i), (ii), (iii), (iv), (v), (vi), (vii), and (viii)); and two allegations of disqualifying conduct under AG B, Foreign Influence (SOR ¶¶ 3.a. and 3.b.). In his Answer to the SOR, Applicant denied all allegations under AG F and AG E. He admitted the two AG B allegations. Applicant's admissions are included herein as findings of fact. The Government conceded that its evidence failed to establish the disqualifying AG E personal conduct alleged at SOR ¶¶ 2.d., 2.e., and 2.f. (i) through (viii). (Tr. 69-70; 106.)

Applicant is 43 years old and employed as a senior logistics coordinator by a government contractor. He has earned a number of technical and vocational school certifications. From March 1986 to July 1988, he served in the United States military. He seeks a security clearance for the first time. (Ex. 1; Tr. 83-85.)

Applicant married for the first time in 1988. He and his first wife divorced in 1991. The couple had two children. In recent years, Applicant has had two periods of unemployment. He was unemployed for about 11 months between October 2001 and September 2002. He was also unemployed for 11 months between May 2003 and April 2004. In April 2004, he began work as a federal contractor overseas, and he has been consistently employed overseas as a federal contractor since that time. Because he works overseas and spends at least 330 days outside of the United States each year,

Applicant is not required to pay federal income taxes on annual gross income below \$91,500. (Ex. 1; Tr. 93-94.)

When Applicant was interviewed by an authorized investigator in April 2009, he reported that his net monthly income was \$7,700. He reported \$4,184 in monthly fixed household expenses, allocated as follows: rent, \$1,100; utilities, \$200; groceries, \$500; professional association dues, \$9; automobile, \$700; child support, \$1,000; life insurance, \$275; clothing, \$100; and miscellaneous, \$300. He reported one monthly debt bound by contract: a cell phone bill of \$100. His net monthly remainder was \$3,416. (Ex. 5 at 4.)

Applicant reported the following household assets: savings and checking accounts: \$11,909; mutual funds, stocks, and bonds: \$2,300; automobiles: \$8,000; 401k: \$1,500; and furniture: \$22,000. (Ex. 5 at 4.)

Applicant also told the authorized investigator that a former employer paid him a bonus of approximately \$2,500 for work he did between November 1999 and October 2000. Applicant thought the employer had deducted state taxes from the amount he received. He learned later that this had not been done. His state of residence at the time he earned the bonus filed a tax lien against him in 2001 for failure to pay the required taxes on the bonus. Applicant entered into a payment plan with the state and satisfied the debt. Applicant's credit report of April 1, 2009 showed that the lien had been paid and released in March 2007. Applicant provided documentation showing that the lien had been paid and released. (Ex. B; Ex. 5 at 3; Ex. 7 at 3; Tr. 51-53.)

The SOR alleges at ¶ 1.a. that Applicant is indebted to a bank on a \$6,868 debt which was in collection status and had not been paid as of August 12, 2009. In his interview with the authorized investigator, Applicant did not recognize the debt but said he would contact the creditor, verify the debt, and set up a payment plan if it was established as his debt. In his answer to the SOR and at his hearing, Applicant denied the debt. Nothing in the record supports a finding that Applicant contacted the creditor to determine the nature of the debt. (Ex. 5 at 4; Answer to SOR at 4; Tr. 61-62.)

The debt alleged at SOR ¶ 1.a. appears on Applicant's credit reports of April 1, 2009 and June 12, 2009. Both credit reports show the account was opened in December 2006. The credit report of April 1, 2009, shows that the creditor reported delinquencies in the account in February and March 2009. Applicant provided a credit report, dated January 12, 2010, which did not include the delinquent account alleged at SOR ¶ 1.a. (Ex. A; Ex. 6 at 1; Ex. 7 at 5; Tr. 61-62.)

The SOR alleged at ¶ 1.b. that Applicant owed a credit union approximately \$17,000 on a debt in collection status, and, as of August 12, 2009, the debt had not been paid. Applicant's most recent credit report of June 12, 2009, identifies the debt as resulting from the involuntary repossession of an automobile purchased in 2000. In his interview with an authorized investigator in April 2009, he stated that he had made payments on the automobile until February 2002, when he began to miss payments. He

told the investigator that when he could no longer afford to make the monthly payments; he voluntarily returned the vehicle to the creditor in February or March of 2002. He further stated that his ex-wife had looked at his credit report and found the debt on the repossessed automobile listed twice. Applicant further reported that his ex-wife had disputed the duplicate debt on his behalf with the credit reporting agencies and had assured him that the debt was more than seven years old and would drop off his credit report in 2009. In his Answer to the SOR, Applicant denied the delinquent debt. At his hearing, Applicant stressed that he voluntarily returned the automobile to the creditor when he was unemployed and about 60 days in arrears in his monthly payments on the vehicle. He provided a credit report that showed the debt as past due in the amount of \$17,764. He has not contacted the creditor and he has made no arrangements to pay or settle the debt. Applicant failed to provide documentation to corroborate his assertion that he did not owe the debt. (Ex. A; Ex. 5 at 4; Ex. 6; Tr. 62-63, 85-92.)

The SOR alleged at ¶ 1.c. that Applicant owed a \$120 delinquent debt, in collection status, to a communication company, and, as of August 12, 2009, the debt had not been satisfied. The debt is listed on Applicant's credit report of April 1, 2009, but it is not listed on his credit report of June 12, 2009. In his April 2009 interview with an authorized investigator, Applicant stated he had never had an account with the creditor identified at SOR ¶ 1.c. However, he told the investigator he had paid the debt. In his Answer to the SOR, Applicant denied the debt. He provided a credit report entry that purported to show the debt was satisfied. However, the entry on Applicant's credit report showed he had satisfied a \$298 debt to a separate communication creditor. The government's Ex. 6 corroborated the \$298 payment. Applicant did not provide any other documentation to establish payment of the \$120 delinquency. The record does not reflect that Applicant has had credit counseling. (Ex. A; Ex. 5 at 4; Ex. 6; Ex. 7; Tr. 63-64.)

Applicant completed and certified an e-QIP on December 22, 2008. Section 27 of the e-QIP asks questions about an applicant's financial record. Section 27b reads: "In the last 7 years, have you had your wages garnished or had any property repossessed for any reason?" Applicant answered "No" to the question at Section 27b. He failed to disclose that he had a vehicle repossessed in February or March of 2002. The SOR alleged at ¶ 2.a. that Applicant's failure to disclose the vehicle repossession was deliberate. Applicant said he answered the question "No" because he did not think a voluntary relinquishment of a vehicle was a repossession. (Ex. 1; Tr. 65-66.)

Section 27c of the e-QIP requires that an applicant respond to the following question: "In the last 7 years, have you had a lien placed against your property for failing to pay taxes or other debts?" Applicant answered "No" to the question at Section 27c. He failed to disclose that a state tax lien had been filed against him in December 2001. The SOR alleged at ¶ 2.b. that Applicant's failure to disclose the tax lien was deliberate. Applicant denied deliberate falsification and said he answered "No" because he did not own property in the state that issued the tax lien. (Ex. 1; Tr. 66-67.)

Section 28 of the e-QIP asks questions about an applicant's financial delinquencies. Section 28a reads: "In the last 7 years, have you been over 180 days delinquent on any debt?" Sections 28b reads: "Are you currently over 90 days delinquent on any debt(s)?" Applicant answered "No" to the questions posed at Section 28a and 28b. He failed to disclose the debts alleged at SOR ¶¶ 1.a. through 1.c. The SOR alleged at ¶ 2.c. that Applicant's failure to list his financial delinquencies was deliberate. Applicant stated he did not believe the debts alleged on the SOR were his. He denied he deliberately failed to disclose his financial delinquencies. (Ex. 1; Tr. 67-69.)

When Applicant completed his e-QIP on December 22, 2008, he signed the following certification:

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code).

(Ex. 1.)

In January 2005, Applicant traveled to Ethiopia and met the woman who became his second wife. Applicant and the woman married in May 2005, and Applicant rented an apartment in an Ethiopian city, where the wife remained while he returned to his work in another country as a government contractor. Every six months, Applicant traveled to Ethiopia to visit his wife. In May 2007, Applicant's wife gave birth to a daughter in Ethiopia. (Ex. 1; Ex. 5 at 5; Tr. 76-78.)

Applicant wanted to take his wife to the United States to live. However, the process was protracted because Applicant had failed to file federal income tax returns in at least 1999, 2000, 2001 and 2002<sup>1</sup> and owed approximately \$30,000 in delinquent taxes. In order to be able to sponsor his wife for immigration to the United States, Applicant entered a payment plan with the Internal Revenue Service and paid the delinquent taxes. From 2002 until the present, he has paid his federal income taxes on time. (Ex. C; Ex. 5 at 6; Tr. 55-60.)

In April 2008, Applicant traveled to Ethiopia and brought his wife and child to live in the United States. He then returned to his work overseas. Applicant's wife is a citizen of Ethiopia, and her parents are citizens and residents of Ethiopia. Applicant's father-in-law is a retired teacher. Applicant's mother-in-law works for a local government in Ethiopia. (Tr. 70-79.)

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<sup>1</sup> Applicant told an authorized investigator in April 2009 that he had also failed to file federal income tax returns in 1998. (Ex. 5 at 6.)

Applicant's wife now resides in the United States with their daughter, who is a U.S. citizen. Applicant provides for his wife's housing, education, child care, and living expenses. She attends nursing school and lives near an aunt who is also a citizen of Ethiopia. She is close to her parents in Ethiopia and communicates with them by telephone at least once a week. Applicant's job responsibilities overseas limit his ability to spend time with his wife and child. The citizenship of Applicant's wife and the citizenship and residency of her parents are alleged at SOR ¶ 3.a. and 3.b. (Tr. 70-73, 82, 93-97.)

I take administrative notice of the following facts about Ethiopia:

Because some of the earliest human bones and artifacts have been found in Ethiopia, many think that mankind originated there. Over the course of time, Ethiopia has been subject to numerous occupations and political influences. In the 20th century, Ethiopia was occupied by Italian Fascist forces in 1936, causing the reigning monarch to seek exile. Five years later, British and Ethiopian forces defeated the Italians and restored the monarch, Emperor Haile Selassie, to power. In 1975, Selassie was murdered, his government overthrown, and a totalitarian-style government established. The government then created a large military force, with the support and financial assistance of the Soviet Union, Eastern Bloc nations, and Cuba. In the late 1970s and early 1980s, the government adopted communism as its economic model and established the Workers' Party of Ethiopia, promulgating also a Politburo and Soviet-style constitution. That government fell in about 1991. (HE 1.)

The current government of Ethiopia, known as the Federal Democratic Republic of Ethiopia, is organized politically under a constitution ratified in 1994. The country has a population of 83 million and an average inflation rate of 41%. While Amharic is the official language of Ethiopia, English is the most widely spoken foreign language and is taught in all secondary schools. (HE 1.)

The current government has sought economic reform, including privatization of state businesses and bringing rational order to government regulation. However, these initiatives have not attracted much foreign investment, and government involvement in the economy has persisted. (HE 1.)

Eighty-five percent of the people of Ethiopia are active in agriculture, which is the mainstay of the country's economy. Ethiopian agriculture suffers from periodic drought, soil degradation, and a weak internal transportation system, conditions that make it difficult to produce and to carry agricultural products to markets. Ethiopia's subsistence economy and fragile agricultural position limit development and economic autonomy. (HE 1.)

Serious human rights abuses, including arbitrary arrest and detention, illegal searches, human trafficking, and police and judicial corruption, continue to occur in Ethiopia. Even so, most citizens enjoy greater political freedom than ever before in their country's history. (HE 1.)

Since 1991, Ethiopia has moved out of the Russian orbit and has developed strong relations with the United States and other Western nations. Ethiopia is a strategic partner of the United States in the Global War on Terrorism. The United States and other countries are providing aid to Ethiopia for training in peacekeeping operations, counter-terrorism, and military medicine. (HE 1; HE 2.)

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, and it has emphasized that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant Applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

When evaluating an Applicant’s suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, the administrative judge applies these guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The

Applicant has the ultimate burden of persuasion in seeking to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly under AG ¶ 19(c), “a history of not meeting financial obligations” may raise security concerns. Since about 2002, Applicant accumulated substantial delinquent debt, and he was unwilling to pay his creditors. This evidence is sufficient to raise these potentially disqualifying conditions.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Several Guideline F mitigating conditions could apply to the security concerns raised by Applicant’s financial delinquencies. Unresolved financial delinquency might be mitigated if it “happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment.” (AG ¶ 20(a)). Additionally, unresolved financial delinquency might be mitigated if “the



conditions that resulted in the financial problem were largely beyond the person's control, (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation, and the individual acted responsibly under the circumstances." (AG ¶ 20(b)).

Still other mitigating circumstances that might be applicable include evidence that "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" (AG ¶ 20(c)) or "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts" (AG ¶ 20 (d)). Finally, security concerns related to financial delinquencies might be mitigated if "the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue." (AG ¶ 20 (e)).

Applicant's credit reports of April 1, 2009 and June 12, 2009 show that he owed a \$6,868 delinquent debt on an account opened in December 2006. The credit report of April 1, 2009, reflected that the creditor reported delinquencies in the account in February and March 2009. When Applicant was questioned about the debt by an authorized investigator in April 2009, he did not recognize the debt but stated he would contact the creditor to acquire more information and resolve the debt if it were his. He continued to deny the debt in his answer to the SOR and at his hearing. He provided a credit report that showed he did not owe the debt.

In about 2000, Applicant entered a contract to purchase an automobile. In 2002 or 2003, he was unable to make the payments according to the contract. He was delinquent in making his monthly payments to the creditor, and he returned the vehicle to the dealer. He knew the automobile was not paid for. The \$17,000 debt was identified on Applicant's credit reports as an automobile repossession. Applicant denied the debt because he had voluntarily returned the vehicle to the dealer. He did not dispute his original financial obligation, and he failed to provide documentation to establish that he did not owe the debt.

Finally, Applicant denied he owed a creditor \$120. He stated he had paid the debt, and he cited an entry on his credit report showing that he did not owe a debt to another creditor not identified on the SOR. He failed to provide documentation that established that he had satisfied the \$120 debt.

Applicant's credit bureau reports established that the two of the three financial delinquencies alleged on the SOR belonged to him. He failed to establish that the delinquencies alleged at SOR ¶¶1.b. and 1.c. had been paid or otherwise satisfied.

While Applicant experienced unemployment between 2001 and 2002 and between 2003 and 2004, he has been steadily employed at a high salary since 2004. The record neither establishes that his unemployment created a situation beyond his control that prevented him from satisfying his creditors, nor that he acted responsibly

under the circumstances. To his credit, Applicant provided documentation corroborating his assertions that he had satisfied a delinquent state tax lien, had paid delinquent federal income tax, and did not owe the debt alleged at SOR ¶ 1.a. The state tax lien and the federal income tax delinquencies were not alleged on the SOR under Guideline F. However, he has not demonstrated a track record of timely and good faith payment of two of the three debts alleged on the SOR. He has not sought professional financial advice or credit counseling. It is not clear that he will be able to manage his finances and avoid financial delinquency in the future. Curiously, he has not arranged payment and set aside money to meet his financial delinquencies, despite his substantial monthly net remainder. I conclude that none of the financial considerations mitigating conditions (AG ¶¶ 20 (a), 20(b), 20(c), 20(d) or 20(e)) apply fully in mitigation to the facts of Applicant's case.

### **Guideline E, Personal Conduct**

AG ¶ 15 explains why personal conduct is a security concern:

Conduct involving questionable judgment, 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.

The government conceded that it was unable to prove the personal conduct allegations at SOR ¶¶ 2.d., 2.e., and 2.f. (i. through viii.). Accordingly, those allegations are concluded for Applicant.

When Applicant completed and certified his e-QIP in December 2008, he did not acknowledge or report his automobile repossession in 2002, the tax lien levied against him in 2001, or the three financial delinquencies alleged on the SOR. He denied intentionally falsifying his responses to Sections 27b, 27c, 28a, and 28b on his e-QIP.

Applicant's falsifications raise security concerns under AG ¶ 16(a), which reads: "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."

I observed Applicant carefully and reviewed the record evidence to assess his state of mind when he denied deliberately falsifying his answer to the question at Section 27b. Applicant was a mature adult who had successfully completed numerous technical and vocational courses. He consistently denied the automobile repossession because he had voluntarily returned the vehicle to the dealer when he was unable to make the required monthly payments. He apparently believed that voluntarily returning

a vehicle to a creditor or dealer did not constitute repossession. I recognize that Applicant is not trained in law or finance and that he may have been misled by the phrasing of question at Section 27b on the e-QIP he executed and certified in December 2008. I conclude that his statement denying a property repossession in the previous seven years did not constitute deliberate falsification of a material fact.

Similarly, I conclude that Applicant's "No" answer to the question at Section 27c could have resulted from a legitimate misunderstanding about the nature of a tax lien as distinguished from a lien against personal property. Moreover, since the tax lien had been served on him approximately seven years before he completed his e-QIP, he could reasonably have concluded that he was not required to admit and report it. For these reasons, then, I conclude that Applicant did not deliberately falsify material facts when he responded "No" to the questions at Section 27c of his e-QIP.

However, Applicant's "No" answers to the questions at Sections 28a and 28b raise concerns under AG ¶ 16(a). Applicant had reason to know that the \$17,000 delinquency on his automobile and the \$120 debt to a communication company were seriously delinquent when he completed his e-QIP in December 2008. He also had reason to know that if he admitted them on his e-QIP, he would have to make good-faith efforts to resolve them by payment or settlement. He made no effort to contact the creditor identified in SOR ¶ 1.b. to corroborate his assertions that the debt was no longer his responsibility. The documentation he provided to show that he had satisfied the \$120 debt alleged at SOR ¶ 1.c. did not corroborate satisfactory payment.

The Appeal Board has cogently explained the process for analyzing falsification cases:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant's intent or state of mind at the time the omission occurred.

ISCR Case No. 03-10380 at 5 (App. Bd. Jan. 6, 2006) (citing ISCR Case No. 02-23133 (App. Bd. June 9, 2004)).

I observed Applicant carefully at his hearing, and I have considered the record evidence as a whole. Applicant is a mature adult of 43 years of age. He has successfully completed several technical and vocational training courses. He served for over two years in the U.S. military, and, in the course of living, he entered into numerous consumer purchase contracts and agreements.

His denial of two of the three delinquent debts alleged on the SOR lacked credibility. The debts were listed on his credit reports. He did not take action to contact the creditor who held the \$17,000 debt alleged at SOR ¶ 1.b to corroborate his belief

that he owed nothing. He claimed he had satisfied the debt alleged at SOR ¶ 1.c., but he failed to provide documentation to corroborate payment. Additionally, Applicant had good reason to want to hide the debt alleged at SOR ¶ 1.b: the \$17,000 debt remained unsatisfied after six years, and his ex-wife had advised him that it would drop off his credit report after seven years.

I have carefully reviewed all Guideline E mitigating conditions that might apply to the facts of this case. I conclude that none of the applicable personal conduct mitigating conditions applies to Applicant's failure to acknowledge his automobile financial delinquency or his debt to a communications company. I conclude that Applicant's failure to acknowledge and report those delinquencies was deliberate.

### **Guideline B, Foreign Influence**

Under Guideline B, Foreign Influence, “[f]oreign 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.” AG ¶ 6.

Additionally, adjudications under Guideline B “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 U.S. citizens to obtain protected information and/or is associated with the risk of terrorism.” AG ¶ 6.

I have considered all of the disqualifying conditions under the Foreign Influence guideline. The facts of Applicant's case raise security concerns under disqualifying conditions AG ¶ 7(a) and AG ¶ 7(d). AG ¶ 7(a) reads: “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.” AG ¶ 7(d) reads: “sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.”

Ethiopia has been an ally of the United States in the War on Terrorism, and Ethiopia and the United States have a positive and strategic relationship. However, Ethiopia is a poor country with a long history of human rights abuses that include arbitrary arrest and detention, illegal searches, human trafficking, and police and judicial corruption. American citizens with immediate family members who are citizens or residents of Ethiopia could be vulnerable to coercion, inducement, manipulation, or pressure.

Applicant's wife is a citizen of Ethiopia. His father-in-law and mother-in-law are citizens and residents of Ethiopia. Even though he spends a great deal of time working

overseas, Applicant shares a home in the United States with his wife, who has close familial relationships with her parents. Applicant's wife speaks with her parents on the telephone at least once a week. These facts raise security concerns under AG ¶¶ 7(a) and 7(d).

Several mitigating conditions under AG ¶ 8 might be applicable to Applicant's case. If "the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.," then AG ¶ 8(a) might apply. If "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," then AG ¶ 8(b) might apply. If "contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation," then AG ¶ 8(c) might apply.

Applicant's relationship with his wife is not casual, and his wife's contacts with her parents are neither casual nor infrequent. Instead, these relationships are based on long-standing family ties of affection and obligation. Applicant is a dutiful husband and father, and his wife, a citizen of Ethiopia, is a dutiful daughter to her parents, who are citizens and residents of Ethiopia. Ethiopia, while an ally of the United States, is also a country that has traditionally abused and exploited the human rights of its own citizens, raising a concern that Applicant's close relationships with his wife and his wife's close relationships with her parents could be targeted for foreign exploitation, pressure, or coercion in ways that might also threaten U.S. security interests.

Applicant offered no evidence to rebut the government's assertion that his contacts with his wife, a citizen of Ethiopia, and his in-laws who are citizens and residents of Ethiopia could create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. Applicant's relationships with his family members who are citizens of Ethiopia could force him to choose between loyalty to his relatives and the security interests of the United States. (ISCR Case No. 03-15485, at 4-6 (App. Bd. June 2, 2005)) I conclude that the mitigating conditions under AG ¶¶ 8(a), 8(b), and 8(c) do not apply to the facts of Applicant's case.

Nothing in Applicant's answers to the Guideline B allegations in the SOR suggested he was not a loyal U.S. citizen. Section 7 of Executive Order 10865 specifically provides that industrial security clearance decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."

## Whole Person Concept

Under the whole person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant's financial problems began at least ten years ago, when he was a mature adult. Over the years, he has not been attentive to his financial obligations: he failed to file federal income tax returns between 1999 and 2002, and he did not seek to resolve his federal tax debt until his tax delinquencies impeded sponsorship of his wife for immigration to the United States. He does not have a plan to resolve his remaining debts and to avoid financial problems in the future. He earns a substantial salary, pays no federal income tax on any income he earns below \$91,500, and has a net monthly remainder of approximately \$3,400. Under these circumstances, his failure to acknowledge and to address his financial delinquencies over a significant period of time raises concerns about his judgment and reliability.

Applicant materially falsified his e-QIP by failing to disclose two long-standing financial delinquencies. Applicant is committed to providing for his wife and child who reside in the United States while he works overseas. Applicant's wife is a citizen of Ethiopia. She is in close and continuing contact with her parents, who are citizens and residents of Ethiopia. Applicant's commitment to the support of his wife and child is admirable. However, it raises concerns that his family commitments could cause conflicts in his ability to protect classified information.

Overall, the record evidence leaves me with questions and doubts at the present time as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant failed to mitigate the security concerns arising under the financial considerations, personal conduct, and foreign influence adjudicative guidelines.

## Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraphs 1.b. - 1.c.:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a. - 2.b.:	For Applicant
Subparagraph 2.c.:	Against Applicant
Subparagraphs 2.d. - 2.e.:	For Applicant
Subparagraphs 2.f(i). - 2.f(viii).:	For Applicant
Paragraph 3, Guideline B:	AGAINST APPLICANT
Subparagraphs 3.a. - 3.b.:	Against Applicant

## Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Joan Caton Anthony  
Administrative Judge