



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



In the matter of:	)	
	)	
	)	ISCR Case No. 09-08384
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Kathryn D. MacKinnon, Esquire, Deputy Chief Department Counsel  
For Applicant: *Pro se*

January 31, 2011

**Decision**

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the case file, pleadings, and exhibits, I conclude that Applicant failed to mitigate the government’s security concerns under Guideline F (Financial Considerations), Guideline B (Foreign Influence), and the “whole-person” analysis. Her eligibility for a security clearance is denied.

Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) on April 1, 2009. On June 8, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations) and Guideline B (Foreign Influence). DOHA acted 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) effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant’s answer to the SOR was signed and notarized on July 1, 2010. She requested a decision on the record in lieu of a hearing. The government compiled its File of Relevant Material (FORM) on September 30, 2010. The FORM contained documents identified as Items 1 through 6. Additionally, in the FORM, the Government

requested that I take administrative notice of certain facts about the Islamic Republic of Pakistan (Pakistan) and provided, for reference, eight official U.S. Government source documents and a five-page factual summary derived from the eight official U.S. Government documents. I marked the Government's administrative notice documents as Hearing Exhibit (H.E.) A.

On October 1, 2010, DOHA forwarded a copy of the FORM to Applicant, with instructions to submit any additional information and objections within 30 days of receipt. Applicant received the file on October 7, 2010. Her response was due on November 6, 2010. Applicant timely submitted four exhibits related to the Guideline F allegations in the SOR. Deputy Chief Department Counsel did not object to the admission of these exhibits, which I then marked as Ex. A through Ex. D and admitted to the record. Additionally, Applicant submitted additional evidence in response to the Guideline B allegations. I marked Applicant's additional information as Ex. E and admitted it, without objection, to the record.

Additionally, Applicant, in response to the FORM, submitted 16 documents which discussed persecutions of a minority Muslim sect in Pakistan. Deputy Chief Department Counsel did not object to these documents. I marked the documents as H.E. 1 through H.E. 16 and admitted them into evidence. H.E. 1 and H.E. 6 were official U.S. Government documents containing facts about the persecution of the minority Muslim sect. H.E. 2, H.E. 3, and H.E. 4 were selections from publications of private sector human rights advocacy groups. H.E. 5 was a law review article about the persecution of the minority Muslim sect. H.E. 7, H.E. 9, H.E. 10, H.E. 11, H.E. 12, H.E. 13, H.E. 14, H.E. 15, and H.E. 16 were reports printed from internet news sources. The source for the information offered as H.E. 8 was not identified. Pursuant to ¶¶ E3.1.19. and E3.1.20. of Enclosure 3, Additional Procedural Guidance, Directive, I take administrative notice of Applicant's H.E. 1 and H.E. 6. Additionally, Applicant provided as H.E. 17, five decisions by DOHA administrative judges in cases with Guideline F and Guideline B allegations. I admitted H.E. 17 to the record, without objection, but note that DOHA administrative judge decisions have "persuasive" but not precedential value. On January 10, 2011, the case was assigned to me for a decision.

### **Findings of Fact**

The SOR contains three allegations that raise security concerns under Guideline F, Financial Considerations (SOR ¶¶ 1.a. through 1.c.), and six allegations that raise security concerns under Guideline B, Foreign Influence (SOR ¶¶ 2.a. through 2.f.) In her Answer to the SOR, Applicant admitted the three Guideline F allegations but denied that they raised security concerns and provided additional information. She admitted five Guideline B allegations (SOR ¶¶ 2.a., 2.c., 2.d., 2.e., and 2.f.) and denied one allegation (SOR ¶ 2.b.). She denied that the Guideline B allegations raised security concerns, and she provided additional information. Applicant's admissions are entered as findings of fact. (Item 1; Item 2.)

Applicant is 30 years old, a native-born U.S. citizen, and an employee of a defense contractor. She married in 2000, and she is the mother of two children, ages seven and two years. (Item 3; Item 4.)

In 2006, Applicant purchased a home as an investment property. The record does not contain Applicant's mortgage contracts, information reciting the monthly mortgage payments she agreed to make, or a listing of her income and expenses at the time of the purchase. On her e-QIP, Applicant stated that she purchased the house "with brothers and sisters as an investment opportunity."<sup>1</sup> In her response to the FORM, Applicant identified herself as the purchaser of the property. She stated that she contacted the creditor and was unsuccessful in negotiating a loan modification. However, she provided no documentation to corroborate this statement. She also stated that she exhausted her savings and borrowed \$12,000 from her father in order to make mortgage payments on the property.<sup>2</sup> When Applicant could no longer make the necessary mortgage payments or sell the property, it was foreclosed upon in March 2008. Applicant's March 2010 credit report shows she owes a past due amount of \$35,763 on a second mortgage of approximately \$119,000 on the foreclosed property. The delinquent debt is alleged at SOR ¶ 1.c. In her answer to the SOR, Applicant admitted the debt. She stated that she intended to pay the debt in the future after she had satisfied other financial obligations. (Item 1; Item 2; Response to Form, Ex. A, Ex. E; Item 4 at 58; Item 5 at 2.)

In her response to the FORM, Applicant provided general information on mortgages and foreclosures in 2006. She also provided statistics on individuals facing foreclosures of their homes. She stated that the circumstances that caused the decline of the real estate market were beyond her control. She also stated that she had taken all steps that she could have taken to resolve her real estate debt. (Response to FORM, Ex. A, Ex. D.)

The SOR alleged that Applicant was responsible for two additional delinquent debts. SOR ¶ 1.a. alleges that Applicant owes a creditor \$3,874 on a delinquent debt in collection status. Her credit reports of April 17, 2009 and March 2, 2010 show that the debt became delinquent in November 2008. SOR ¶ 1.b. alleges that Applicant owes a creditor \$591 on a delinquent debt in collection status. Applicant's credit report of April 17, 2009, shows that the debt became delinquent in July 2008. Applicant admitted both debts. In her Answer to the SOR and response to the FORM, Applicant provided documentation to corroborate that she had negotiated a payment plan with the creditor identified in SOR ¶ 1.a. and had made four payments of \$50 in accordance with the

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<sup>1</sup> Applicant stated that she and her brother lived in the property. Her credit report of March 2, 2010, lists the second mortgage debt. (Item 3 at 13; Item 5.)

<sup>2</sup> In her response to the FORM, Applicant stated that she had "cashed out" her 401k account, and she provided a document showing that on June 26, 2008, she received a net lump sum distribution of \$11,402.46 from an investment company. She stated that she used \$8,500 of that amount to repay her father, who had lent her \$12,000 to pay her investment property mortgage debt. She used the remaining lump sum distribution to pay other debts. (Response to FORM, Ex. A, Ex. C, Ex. E at 3.)

plan. The \$50 payments were made in August, September, October, and November of 2010. In her response to the FORM, Applicant stated that she had made a settlement payment to the creditor identified at SOR ¶ 1.b. in July 2009, but had been unable to make subsequent payments because she elected to pay other debts instead. She stated that she intended to resume payments to the creditor identified at SOR ¶ 1.b. in January 2011. She provided no evidence of a payment plan or previous payments to the creditor. (Item 1; Item 2; Item 5; Item 6; Response to FORM, Ex. A.)

In response to DOHA interrogatories, Applicant provided a personal financial statement. She reported a monthly net income of approximately \$2,923<sup>3</sup> and monthly living expenses of \$2,157. Her monthly living expenses are as follows: rent, \$1,185; groceries, \$130; clothing, \$50; utilities, \$100; and car expenses, \$692. She listed monthly debt payments totaling \$530. Applicant's net monthly remainder is \$291.<sup>4</sup> Nothing in the record establishes that Applicant has had financial credit counseling. (Item 3 at 4.)

Applicant's husband, from whom she is separated, is a citizen of Pakistan and a member of the Ahmadi Muslim sect, which has been persecuted in Pakistan. Applicant has daily contact with her husband regarding the care of their two children. Applicant's father, who is a naturalized U.S. citizen, has been an employee of the Pakistani government in the United States for at least 28 years. Applicant denies that her father is a dual citizen of Pakistan, and it is not clear from the record that he holds or exercises dual citizenship with Pakistan. (Item 3 at 13; Response to FORM, Ex. E.)

Applicant's mother is deceased and is buried in Pakistan. Applicant's stepmother and mother-in-law are Pakistani citizens and reside in the United States. Applicant has an uncle, a Pakistani citizen, who was residing in Pakistan in 2007, when Applicant and her son traveled to Pakistan and visited him there. In her answer to the SOR, Applicant reported that she had recently learned that her uncle had moved to Canada and was pursuing Canadian citizenship. (Item 3 at 14; Item 4; Response to FORM, Ex. E.)

Applicant asserts that she is estranged from her father and her stepmother. She has contact and communication with them about once a month. Applicant's husband and mother-in-law were granted asylum in the United States based on their Ahmadi Muslim religious beliefs. Applicant's mother-in-law suffered a stroke in 2003. She has been bedridden since that time and unable to take part in normal family life. Applicant sees her mother-in-law about once a month, and because of the mother-in-law's physical disabilities, she has limited communication with her. (Response to SOR, Ex. E, 1-5.)

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<sup>3</sup> Applicant reported that she also had earned \$55.16 in overtime pay between January 1, 2010, and February 22, 2010. (Item 3 at 4-5.)

<sup>4</sup> Applicant's overtime pay is calculated as a part of her net monthly remainder. (Item 3 at 4.)

I take administrative notice of facts about Pakistan. The facts in the following summary were provided by Department Counsel to Applicant and to me. The facts were derived from official U.S. Government documents provided as attachments to the FORM and are identified in the record as H.E. A<sup>5</sup>:

Pakistan is a parliamentary republic in South Asia with a population of over 170 million people. Pakistan is a low-income country, with a population that is 97% Muslim. Pakistan has extreme poverty and is underdeveloped. Its economy remains vulnerable to internal security concerns. Pakistan has a coalition government led by Prime Minister Yousef Gilani and president and head of state Asif Ali Zardari, widower of assassinated Pakistan People's Party leader Benazir Bhutto.

After September 11, 2001, Pakistan pledged its alliance with the U.S. in counterterrorism efforts and made a commitment to eliminate terrorist camps on its territory. Despite these efforts, members of the Taliban are known to be in the Federally Administered Tribal Areas (FATA) of Pakistan, the Khyber Pakhtunkhwa (Kpk) (formerly known as the Northwest Frontier Province (NWFP)), and in the Balochistan Province, which borders Iran and Afghanistan. The leader of the Taliban, Mullah Omar, is operating openly in Pakistan. The Pakistani Taliban (Tehrik-i-Taliban "TTP"), al-Qa'ida extremists, foreign insurgents, and Pakistani militants have re-exerted their hold over areas in the FATA and NWFP, and the Pakistani Taliban also used the FATA to plan attacks against civilian and military targets across Pakistan. Al-Qa'ida leadership in Pakistan supported militants in conducting attacks in Afghanistan and provided funding, training, and personnel to facilitate terrorist and insurgent operations.

In addition to the Taliban, the FATA in Pakistan continues to be a vital sanctuary to al-Qa'ida and a number of foreign and Pakistan-based extremist groups. Al-Qa'ida and other Afghan extremist groups exploit that operating environment to plan operations, direct propaganda, recruit and train operatives, and raise funds with relative impunity.

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<sup>5</sup> The following official U.S. Government documents were used to provide the factual summary quoted in this decision: U.S. Department of State, *Background Note: Pakistan*, July 21, 2010 (16 pages); U.S. Department of State, *Country Specific Information: Pakistan*, July 13, 2010 (10 pages); U.S. Department of State, *2009 Human Rights Report: Pakistan*, March 11, 2010 (41 pages); *Annual Threat Assessment of the U.S. Intelligence Community for the Senate Select Committee on Intelligence*, Director of National Intelligence, February 2, 2010 (47 pages); Verbatim Interview: Chairman of the Joint Chiefs of Staff Admiral Mike Mullen, National Public Radio, March 27, 2009, as found at <http://www.jcs.mil/speech.aspx?id=1148>; U.S. Department of State, *Country Reports on Terrorism 2009, Chapter 5 – Terrorist Safe Havens and Tactics and Tools for Disrupting or Eliminating Safe Havens*, August 5, 2010 (15 pages); U.S. Department of State, *Country Reports on Terrorism 2009, Chapter 2 – Country Reports South and Central Asia Overview*, August 5, 2010 (9 pages); and U.S. Department of State, *Travel Warning Pakistan*, July 22, 2010 (4 pages). Footnotes in the quoted text were omitted.

Overall, Pakistan has intensified counterinsurgency efforts, but its record with dealing with militants has been mixed. Pakistan has demonstrated determination and persistence in combating militants it perceives to be dangerous to Pakistan's interests, particularly those involved in attacks in settled areas, but it maintains its historical support to the Taliban, has not consistently pursued militants focused on Afghanistan, and still considers militant groups to be important to its efforts to counter India's military and economic advantages.

The U.S. Department of State has defined terrorist safe havens as ungoverned, under-governed, or ill-governed areas of a country and non-physical areas where terrorist groups that constitute a threat to U.S. national security interests are able to organize, plan, raise funds, communicate, recruit, train, and operate in relative security because of inadequate governance capacity, political will, or both. The U.S. Department of State has concluded that, despite increased efforts by Pakistani security forces, al-Qa'ida terrorists, Afghan militants, foreign insurgents, and Pakistani militants continue to find safe haven in portions of Pakistan's FATA, NWFP, and Baluchistan, and have operated in those areas to organize, train, and plan attacks against the United States and its allies in Afghanistan, India, and Europe.

The Department of State warns U.S. citizens of the risks of traveling to Pakistan in light of the threat of terrorist activity, specifically the presence of al-Qa'ida, Taliban elements, and indigenous militant sectarian groups that pose a danger to American citizens. In the last three months of 2009, Pakistan-based extremists and al-Qa'ida conducted at least 40 suicide terrorist attacks in major cities in Pakistan, killing about 600 Pakistani civilians and security force personnel. Terrorists and their sympathizers have demonstrated their willingness and capability to attack targets where Americans are known to congregate or visit. Suicide bombings and attacks occur throughout Pakistan on a regular basis. Also, since 2007, several American citizens throughout Pakistan have been kidnapped.

The human rights situation in Pakistan remains poor. Major problems include extrajudicial killings, torture and disappearances. Additional problems include poor prison conditions, arbitrary arrest, widespread government corruption, rape, honor crimes, and widespread trafficking in persons. The military operations in the FATA and NWFP resulted in the deaths of approximately 1,150 civilians, and militant attacks in the FATA and NWFP killed 825 more civilians. The Pakistani government also maintains several domestic intelligence services that monitored politicians, political activists, suspected terrorists, the media, and suspected foreign intelligence agents. Credible reports indicated that authorities routinely used wiretaps and intercepted and opened mail without the requisite court approval, as well as monitoring mobile phones and electronic messages.

In addition to al-Qa'ida, the Taliban, and other insurgents and militants, foreign terrorist organization Lashkar e-Tayyiba (LT) also operates out of Pakistan. The LT is the prime suspect for the November 2008 Mumbai attacks and is one of the largest and most proficient of the traditionally Kashmiri-focused militant groups.

Applicant's exhibits, identified in the record as H.E. 1 through H.E. 16. specify persecutions of individuals of the Ahmadi sect in Pakistan. I also take administrative notice of the following facts, provided by Applicant, which appear in an official U.S. Government document that she provided:

Ahmadis, who number three-four million in Pakistan, are prevented by law from engaging in the full practice of their faith. The Constitution of Pakistan declares members of the Ahmadi religious community to be "non-Muslims," despite their insistence to the contrary. Barred by law from "posing" as Muslims, Ahmadis may not call their places of worship "mosques," worship in non-Ahmadi mosques or public prayer rooms which are otherwise open to all Muslims, perform the Muslim call to prayer, use the traditional Islamic greeting in public, publically quote from the Koran, or display the basic affirmation of the Muslim faith. It is also illegal for Ahmadis to preach in public, to seek converts, or to produce, publish, and disseminate their religious materials. Ahmadis have been arrested and imprisoned for terms of up to three years for all of the above acts, and they are reportedly subject to ill treatment from prison authorities and fellow prisoners. Because they are required to register to vote as non-Muslims, a policy that was reaffirmed by Pakistani government officials in February 2004, Ahmadis who refuse to disavow their claim to being Muslim are effectively disenfranchised.

*Annual Report of the United States Commission on International Religious Freedom, May 2005*, 129-130, identified in the record as H.E. 1.

### **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 an 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, an 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.

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 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 identifies 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. The record evidence establishes that Applicant accumulated substantial delinquent debt and did not pay her creditors. Applicant bears the burden of persuasion to establish either that she is not responsible for the debts or that matters in mitigation apply.

Several mitigating conditions could apply to Applicant's case. If the financially delinquent behavior "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," then AG ¶ 20(a) might apply. 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," then AG ¶ 20(b) might apply. If "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," then AG ¶ 20(c) might apply. If "the individual initiated a good faith effort to repay overdue creditors or otherwise resolve debts," then AG ¶ 20(d) might apply. Finally, 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," then AG ¶ 20(e) might apply.

Applicant admitted responsibility for two consumer debts that totaled approximately \$4,407. In her response to the FORM, she provided documentation to corroborate her assertion that she had negotiated a payment plan with the creditor identified in SOR ¶ 1.a. for satisfaction of a \$3,874 delinquent debt and had made four consecutive monthly payments under the payment plan. Because she provided documentation to establish that she had made a consistent good faith effort to satisfy a delinquent debt, I conclude SOR ¶ 1.a. for Applicant.

However, Applicant failed to provide documentation to establish that she had negotiated a payment plan with the second creditor or had made consistent payments on a consumer debt of \$591. In her response to the FORM, she acknowledged that she had not paid the delinquent debt because she had elected to pay other debts instead. She stated she would pay the \$591 delinquent debt at some unspecified time in the future.

Additionally, Applicant acknowledged that she was past due in payments on a second mortgage of \$119,000 and owed the creditor approximately \$35,763. She stated she would pay the creditor in the future. She asserted that her inability to pay her mortgage and the subsequent foreclosure action on the property was the result of a downturn in the housing market and due to circumstances beyond her control. However, Applicant provided no documentation to corroborate her assertion, and she failed to establish that she acted reasonably under the circumstances. The record is silent regarding her income, assets, and financial stability at the time she acquired the investment property. Similarly, she provided no documentation showing her monthly mortgage payments and the percentage of her net income that the mortgage payments represented. It is also not clear whether she paid the entire mortgage herself or shared that expense with her brother or other siblings. While she stated that she had taken all steps that she could have taken to resolve her real estate debt, she provided no documentation to corroborate her statement. While she stated that she had contacted the mortgage company to seek a loan modification, she provided no correspondence to or from the creditor to corroborate contacts with the creditor.

Applicant expressed her intent to pay two of her three delinquent debts in the future. However, in determining an individual's security worthiness, the Government cannot rely on the possibility that an applicant might resolve his or her outstanding debts at some future date. ISCR Case No. 98-0614 at 5 (App. Bd. Jul. 12, 1999).

The record does not support a conclusion that Applicant has received financial counseling, and it is not clear from the record that Applicant has a coherent and consistent plan to avoid financial delinquency in the future. I conclude that while AG ¶¶ 20(c) and 20(d) apply in part in mitigation to the debt alleged at SOR ¶ 1.a., AG ¶¶ 20(a), 20(b), and 20(e) do not apply to the facts of this case.

### **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.

Soon after the terrorist attacks of September 11, 2001, Pakistan pledged its alliance with the U.S. in counterterrorism efforts and made a commitment to eliminate terrorist camps on its territory. However, despite these efforts, members of the Taliban are known to be in the Federally Administered Tribal Areas (FATA) of Pakistan, the Khyber Pakhtunkhwa (Kpk) (formerly known as the Northwest Frontier Province (NWFP)), and in the Balochistan Province, which borders Iran and Afghanistan. Overall, Pakistan has intensified counterinsurgency efforts, but its record with dealing with terrorists and militants has been mixed. Pakistan has demonstrated determination and persistence in combating militants it perceives to be dangerous to Pakistan’s interests, but many terrorist groups, including al-Qa’ida and other transnational terrorists and insurgents appear to be operating freely in parts of Pakistan.

Terrorist groups operating in Pakistan have targeted U.S. citizens. The U.S. Department of State has warned U.S. citizens of the dangers of travel to Pakistan. In 2007, Applicant, a U.S. citizen, traveled with her young son to Pakistan, thereby exposing herself and her child to retaliation and danger. While in Pakistan, Applicant stayed with her uncle, a citizen and resident of Pakistan. Applicant claims the uncle now lives in Canada and has applied for Canadian citizenship.

Applicant’s father, a naturalized U.S. citizen, is an employee of the Pakistani government in the United States. The record did not establish that he is a dual citizen of Pakistan, and I therefore conclude allegation 2.b. for Applicant. Applicant, who provided information about her uncle’s Pakistani citizenship and residency, stated in her Answer to the SOR that she had learned that her uncle moved to Canada and applied for Canadian citizenship. Applicant’s assertion is credible, and I also conclude allegation 2.d. for Applicant. I also conclude allegation 2.f. for Applicant, since travel to Pakistan is not, per se, a disqualifying condition under Guideline B, and the alleged travel to Pakistan was not recent.

Applicant’s stepmother is a citizen of Pakistan who resides in the United States with Applicant’s father. While Applicant claims she is estranged from her father, she sees him and her stepmother about once a month. Applicant has sought her father’s support and financial assistance in the past, and she has a long-standing relationship with him. Applicant also asserts that she is estranged from her husband, who is a citizen of Pakistan and a member of a Muslim sect that has a history of persecution in Pakistan. Despite the separation, she has daily contact with her husband. Her husband’s mother, a stroke victim and bedridden for several years, is also a citizen of Pakistan and resides in the United States.

I have considered all of the disqualifying conditions under the Foreign Influence guideline. The facts in this case raise security concerns under disqualifying conditions AG ¶¶ 7(a) and 7(b). 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(b) reads: “connections 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.”

Applicant’s father, while a naturalized U.S. citizen, is an employee of the Pakistani government and has ongoing contacts with Pakistani government officials. Applicant’s husband, from whom she is estranged but with whom she has daily contact, is a citizen of Pakistan. Her stepmother and mother-in-law are also citizens of Pakistan. Applicant’s strained relationships with her father, husband, and stepmother do not lessen or diminish the possibility that her contacts with them could create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. Additionally, if Applicant were entrusted with sensitive or classified information, her relationship with her father, an employee of the Pakistani government, could create a potential conflict of interest between her obligation to protect sensitive information and her desire to help her father or the Pakistani government.

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 contacts and relationships with her father, husband, stepmother, and mother-in-law are neither casual nor infrequent, but are based on long-standing family ties and obligations. Pakistan, while allied with the United States in fighting terrorism, has not fully contained or defeated the Taliban and al-Qa’ida terrorists within its borders. These and other insurgents seek to harm U.S. citizens and U.S. security interests. Applicant’s contacts with family members who are Pakistani citizens or who have strong ties with the Pakistani government increase the likelihood that she could be subject to a conflict of interest or placed in a position of having to choose between the interests of a foreign individual or government and the interests of the United States. Applicant failed to demonstrate that her loyalty to her family members is minimal or that she has such deep and long-standing relationships and loyalties in the United States that she could be expected to resolve any conflict of interest in favor of the U.S. interest. These facts raise ongoing security concerns which Applicant failed to rebut or mitigate. I therefore

conclude that AG ¶¶ 8(a), 8(b), and 8(c) do not fully apply in mitigation to Applicant's case.

Nothing in Applicant's answers to the Guideline B allegations in the SOR suggested she 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, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of an 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 provided very little documentation to establish mitigation in her case. While she receives credit for providing documentation showing that she had an active payment plan in place for the debt alleged at SOR ¶ 1.a., she failed to provide evidence that might have mitigated security concerns relating to her remaining financial delinquencies and to her contacts with her father, an employee of the Pakistani government, and her husband, mother-in-law, and stepmother, all of whom are citizens of Pakistan.

A careful review of Applicant's family relationships raises security concerns about her vulnerability to conflict of interest, foreign exploitation, inducement, and coercion. At the present time, Pakistan remains dangerous, volatile, and subject to unpredictable terrorist attacks. Terrorist groups operating in Pakistan target U.S. citizens and U.S. security interests.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For these reasons, I

conclude that she failed to mitigate the security concerns arising under the financial considerations 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 B:	AGAINST APPLICANT
Subparagraph 2.a.:	Against Applicant
Subparagraph 2.b.:	For Applicant
Subparagraph 2.c.:	Against Applicant
Subparagraph 2.d.:	For Applicant
Subparagraph 2.e.:	Against Applicant
Subparagraph 2.f.:	For 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